

FIFTEENTH DAY.

Senate Chamber,
Austin, Texas,
Monday, January 29, 1917.

The Senate met at 10:01 o'clock a. m., pursuant to adjournment, and was called to order by Lieutenant Governor W. P. Hobby.

The roll was called, a quorum being present, the following Senators answering to their names.

Alderdice.	Hopkins.
Bailey.	Hudspeth.
Bee.	Johnson of Hall.
Buchanan of Bell.	King.
Buchanan of Scurry.	Lattimore.
Caldwell.	McNealus.
Clark.	Page.
Dayton.	Parr.
Dean.	Robbins.
Decherd.	Smith.
Floyd.	Strickland.
Gibson.	Westbrook.
Hall.	Woodward.
Harley.	

Absent—Excused.

Henderson.	McCollum.
Johnston of Harris.	Sulter.

Prayer by the Chaplain.

Pending the reading of the Journal of Saturday, the same was dispensed with on motion of Senator Johnson of Hall.

See Appendix for brief statement of petitions and memorials.

See Appendix for standing committee reports.

Excused.

Senator Henderson was excused for today and indefinitely on account of important business on motion of Senator Lattimore.

Senator McCollum indefinitely, on motion of Senator Hudspeth.

Senator Johnston of Harris for today, on motion of Senator Hudspeth.

Message from the House.

Hall of the House of Representatives,
Austin, Texas, January 29, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: I am directed by the House

to inform the Senate that the House has passed the following bills:

H. B. No. 28, A bill to be entitled "An Act to amend Article 1164 of the Revised Civil Statutes of the State of Texas as amended by Chapter 102 of the Acts of the Regular Session of the Thirty-fourth Legislature, found at page 156 of the printed session acts, relating to the employment or use of the stock, means, assets and other property of corporations, and declaring for what purposes the same may be used; penalizing the officers or agents or employes of such corporations or other organizations who wrongfully use the moneys, means or assets contributed thereto; and declaring an emergency."

With engrossed rider,

H. B. No. 32, A bill to be entitled "An Act to amend Article 3903, Chapter 4, Title 58 of the Revised Civil Statutes of 1911 of the State of Texas, and as amended by Chapter 142 of the Acts of the Regular Session of the Thirty-third Legislature, relating to the appointment of certain officers named in Articles 3881 and 3886 of the Revised Civil Statutes, of deputies or assistants in the performance of the duties of such officers where such assistants or deputies are necessary for the efficiency of the public service; providing for an application to be made by such officers to the county judge of the county for authority to appoint same; prescribing the issuance by the county judge of an order authorizing the appointment of such deputies or assistants; providing that the officer desiring such deputies or assistants shall make affidavit that such assistants or deputies are necessary for the efficiency of the public service; providing for the salary of the chief deputy and the other deputies or assistants; providing that the order of the county judge granting such authority shall state the number of deputies or assistants; providing that the officer requesting said deputies or assistants shall fix their compensation; providing the maximum amount allowed for deputies in counties having population of 37,500 to 100,000; providing the maximum amount allowed deputies in counties having a population in excess of 100,000; and providing that, in counties in excess of 100,000 inhabitants, district attorneys of any district or county attorney is authorized, with the consent of the county judge of said

county, to appoint two assistants in addition to his regular force, which two assistants shall not be required to possess same qualifications required by law for district and county attorneys; providing amount paid said deputies, also providing for fifty dollars per month for necessary expenses," etc.

H. B. No. 34, A bill to be entitled "An Act constituting the several district judges of counties of certain population a juvenile board of such county, and prescribing the powers and duties of such board, including the appointment by it of probation officers, and providing for the payment of compensation of such officers, and allowing the said district judges an additional salary, to be paid out of the general fund of such county."

H. B. No. 57, A bill to be entitled "An Act to amend Chapter 60 of the Acts of the Thirty-third Legislature, passed at its Regular Session and approved March 20, 1913, providing for a special road law for Hunt County, etc., and declaring an emergency."

H. B. No. 230, A bill to be entitled "An Act to validate Common County Line School District No. 14, lying in Comanche and Eastland Counties, under the control of Comanche County, and to validate the consolidation of what was heretofore Common School District No. 14 of Comanche County with Common County Line School District No. 67, lying in Comanche and Eastland Counties, and declaring an emergency."

H. B. No. 240, A bill to be entitled "An Act creating the Eighty-second Judicial District of Texas, to be composed of Falls County and rearranging the terms of the Fifty-fourth Judicial District, and eliminating Falls County from said Fifty-fourth District; prescribing the time for impanelling grand juries in said Fifty-fourth District; prescribing the jurisdiction and fixing the times for holding court and impanelling grand juries in said Eighty-second District; providing for the completion by the judge of the Fifty-fourth Judicial District of such terms of court as may be in session in either county of said Fifty-fourth Judicial District as now constituted at the time this Act takes effect; providing for the appointment and tenure and fixing salary of a judge for said Eighty-second Judicial District; providing for the appointment

of an official court reporter therefor; providing for the present district clerk of Falls County to be the clerk of the said Eighty-second District and continue to hold office for the term for which he was elected; providing for the trial and disposition by said Eighty-second District Court of all business pending in said District Court of Falls county at the time this Act shall take effect, and for the return of all writs and process to and cognizance of all bonds and recognizances by said District Court of Falls County as constituting the Eighty-second Judicial District which shall have been issued, entered into or filed in connection with any business of said Falls County District Court prior to the taking effect of this Act; repealing that part of Section 3 of Chapter 3 of the General Laws enacted by the Regular Session of the Thirty-fourth Legislature, which constituted Falls County a part of the Fifty-fourth Judicial District, and that part of Section 8 of the said Act wherein it provides for the holding of court in Falls County as a part of said Fifty-fourth Judicial District, as well as repealing all other laws and parts of laws in conflict with this Act, and declaring an emergency."

Respectfully,

BOB BARKER,

Chief Clerk, House of Representatives.

Resignation of Journal Clerk.

Senate Chamber,

Austin, Texas, January 17, 1917.

Hon. W. P. Hobby, President Senate.

Sir: I hereby submit to the Senate, through you, my resignation as Journal Clerk, effective Friday, January 19, or as soon thereafter as my successor has been elected and qualified.

In this connection I desire to extend to the members of the Senate, and yourself, my deep appreciation for the uniform and unanimous courtesies extended to me, not only this session, but the sessions that have passed in which I have served. I regret exceedingly that my personal affairs are such that will not permit me to remain in your employment.

Very respectfully,

R. M. GILMORE,

Journal Clerk.

Special Committee Appointed.

Senator Gibson moved that Mr. R. M. Gilmore's resignation as Journal Clerk of the Senate be accepted, effective today (January 29th), and a committee to draft suitable resolutions in respect thereto be appointed.

The motion prevailed, and the Chair named Senators Gibson, McNealus and King as such committee.

Simple Resolution No. 50.

(By unanimous consent.)

Whereas, the resignation of R. M. Gilmore, the Journal Clerk, of the Texas Senate has been received and

Whereas, the place should be filled by an experienced and efficient man, and

Whereas, T. H. Yarbrough has been Assistant Journal Clerk during one regular session and three called sessions, and is efficient and will make an accurate and careful Journal Clerk,

Therefore, be it resolved that, T. H. Yarbrough be, and is hereby elected to the position of Journal Clerk of the Texas Senate for and during the regular session of the Thirty-fifth Legislature.

CLARK,
HOPKINS.

The resolution was read and adopted.

Oath of Office Administered.

By request of the Chair T. H. Yarbrough, the Journal Clerk-elect, appeared before the bar of the Senate and took the constitutional oath of office, administered by Lieutenant Governor Hobby.

Bills and Resolutions.**Senate Bill No. 16 Recommitted.**

By unanimous consent and on request by Senator McNealus, Senate Bill No. 16 was recommitted to the Committee on Public Health.

By Senator Hudspeth:

S. B. No. 237. (See Appendix B for caption.)

Read first time and referred to the Committee on Labor.

By Senator Bailey:

S. B. No. 238, A bill to be entitled "An Act to authorize cities, towns and villages, incorporated under and by virtue of any Act of the Congress of the Republic of Texas, general or special, to accept the provisions of Chapter 1 to 13, both inclusive, of Title Twenty-two of the Revised Statutes of the State of Texas, and amendments of 1911, 1913 and 1915 thereto, upon a two-thirds vote of the city, town or village council thereof to enlarge or diminish, alter or change and redefine the bounds and limits of such cities, towns and villages so as to make them conform to the requirements of Article 777 of the Revised Statutes, and providing that any and all property of such cities, towns and villages accepting the provisions of Chapters 1 to 13 of Title 22 of the Revised Statutes of Texas shall remain the property of such city, town or village, and may be sold by the councils of such cities, towns or villages and the proceeds of such sales appropriated to the purchase, acquisition or construction and maintenance and operation of systems of waterworks, sewer, gas and electric light and power plants and lighting systems, and for other public improvements within such cities, towns and villages, as may be determined by the councils of such cities, towns and villages, and declaring an emergency."

Read first time and referred to Committee on Towns and City Corporations.

By Senators McNealus, Bailey, Bee, and Hudspeth.

S. B. No. 239, A bill to be entitled "An Act to further regulate the conduction of fish hatcheries and the propagation of fish in this State by amending Article 4000 of the Revised Civil Statutes of this State, 1911, as amended by Chapter 146 of the Acts of the Thirty-third Legislature, providing for the distribution by State fish hatcheries of fish to private persons; providing that the Game, Fish and Oyster Commissioner of the State of Texas, as well as the United States Commissioner of Fisheries, or their duly authorized agents, may take or catch fish from the public fresh waters of the State for the purpose of propagation in any manner; according to the United States Commissioner of Fisheries and his duly au-

thorized agents the right to conduct fish hatching and fish culture and all operations connected in any manner and at any time that may be by them considered necessary and proper, and declaring an emergency."

Read first time and referred to Committee on State Affairs.

By Senator Bailey:

S. B. No. 240, A bill to be entitled "An Act to amend Article 3864, Chapter 3, Title 58, of the Revised Civil Statutes passed by the Regular Session of the Thirty-second Legislature of the State of Texas, 1911, relating to sheriff's fees."

Read first time and referred to Committee on Civil Jurisprudence.

By Senator Bailey:

S. B. No. 241, A bill to be entitled "An Act to amend Subdivisions 1, 2, 6 and 7 of Article 1130, Chapter 2, Title 15 of the Revised Criminal Statutes of the State of Texas, passed by the Regular Session of the Thirty-second Legislature, 1911, relating to the fees allowed to sheriffs and constables in all cases when the charge is felony."

Read first time and referred to Committee on Civil Jurisprudence.

By Senator Lattimore:

S. B. No. 242, A bill to be entitled "An Act to provide that women may vote in all primary elections in Texas; prescribing qualifications and declaring an emergency."

Read first time and referred to Committee on Commerce and Manufactures.

By Senators King and Hudspeth:

S. B. No. 243, A bill to be entitled "An Act to validate all sales of public free school lands which were purchased from the State and fully paid for which patents were signed by Governor J. S. Hogg on the 22nd and the 23d days of October, 1894, and on the 30th day of November, 1894, and declaring an emergency."

Read first time and referred to Committee on Public Lands and Land Office.

By Senator Floyd:

S. B. No. 244, A bill to be entitled "An Act establishing a State Normal College; providing for the location of same by a locating committee and for control of same, and declaring an emergency."

Read first time and referred to Committee on Educational Affairs.

By Senators Woodward and Hudspeth:

S. B. No. 245, A bill to be entitled "An Act to prohibit commissioners' courts of any county or city commissioners or city council of any city or town, or the governing body of any other municipal corporations of this State, to create any debt against such county, city or town or other municipal corporation other than obligations payable out of the current revenues for each year, or other funds within the immediate control of such corporations, or by the issuance and sale of negotiable bonds of such municipal corporation in such manner as is now or may hereafter be provided by law; except that the commissioners' court of any county, or city commissioners or city council of any city, may in the event of a public necessity therefor contract for the immediate construction or repair of any public buildings or other improvements and obligate said county, city or town to pay for such necessary public improvements in interest bearing warrants, bearing a rate of interest not to exceed 6 per cent per annum, said warrants to mature serially over a period not to exceed fifteen years; and providing for a penalty for the issuance of fictitious or fraudulent warrants or the issuance of any false certificates with reference to such warrant issues."

Read first time and referred to Committee on Civil Jurisprudence.

By Senator Hall:

S. B. No. 246, A bill to be entitled "An Act conveying to the United States of America all right, title and interest which the State of Texas may have or hold in and to the following described tract of land, situated in the City of Galveston, and the County of Galveston, State of Texas, known and described on the maps and plans of said city now in common use as being the tract of land located on the dyke in Galveston Bay, described as follows: Commencing at a point on the U. S. Dyke bulkhead, same being the S. W. corner of a piece of ground leased to J. P. McDonough by the City of Galveston, Texas; thence S. 76 degrees 54 1-2 minutes W. 82.8 feet to place of beginning, same being approximately on center line of twenty-

fifth Street produced; thence along said bulkhead S. 76 degrees 54 1-2 minutes W. 310.6 feet; thence N. 28 degrees .08 1-2 minutes W. 500 feet; thence N. 76 degrees 54 1-2 minutes E. 310.6 feet parallel to said bulkhead; thence S. 28 degrees .08 1-2 minutes E. parallel to and 80 feet W. of W. line of said J. P. McDonough's lease 500 feet to place of beginning; containing 3.44 acres; for the purpose of enabling the United States Government to build thereon a lighthouse depot, and declaring an emergency."

Read first time and referred to Committee on Public Lands and Land Office.

By Senator Hudspeth:

S. B. No. 247, A bill to be entitled "An Act to amend Chapter 48 of the laws of the Regular Session of the Thirty-first Legislature, 1909, relative to the appointment of assistant district attorneys, prescribing the mode of appointment of district attorneys in districts containing a city of 39,000 population or more according to the United States census of 1910 and in which there is established no criminal district court, prescribing the qualification of such assistant district attorney, defining his duties and providing a method for his removal from office, fixing his salary, and declaring an emergency."

Read first time and referred to Committee on Civil Jurisprudence.

By Senator Hudspeth:

S. B. No. 248, A bill to be entitled "An Act to amend Chapter 127 of the General Laws of the Thirty-fourth Legislature, page 199, of the Acts of said Legislature relating to the fees of district attorneys composed of two counties or more and to provide for assistant district attorneys in certain districts, and to provide for compensation for such assistants, and declaring an emergency."

Read first time and referred to Committee on Civil Jurisprudence.

By Senator Hudspeth:

S. B. No. 249, A bill to be entitled "An Act to amend Chapter 15, Title 71, of the Revised Civil Statutes of this State by adding, following Article 4954, a new Article 4955, and providing in substance that all provisions of the laws of this State applicable to life, fire, marine, inland,

lightning and tornado insurance companies shall, so far as the same are applicable, govern and apply to all companies transacting any other kind of insurance business in this State, so far as they are not in conflict with the provisions of the law made specially applicable thereto, and declaring an emergency."

Read first time and referred to Committee on Insurance and Banking.

By Senator Clerk:

S. B. No. 250, A bill to be entitled "An Act to amend Section 50a, Chapter 100, Acts of the Regular Session of the Thirty-second Legislature, relating to the authority of commissioners' courts to create county line school districts; so as to authorize boards of county school trustees to create such districts and prescribing the manner whereby such districts may be created, and declaring an emergency."

Read first time and referred to Committee on Educational Affairs.

By Senator Bailey:

S. B. No. 251, A bill to be entitled "An Act to create a more efficient road system for Live Oak County, Texas; prescribing who shall be liable to work on the public roads, bridges, culverts and causeways in said county, and who shall be exempt therefrom; prescribing how such person shall be summoned and required to work and the kind of work that shall be done; abolishing the road precincts heretofore created and established in said county; and providing that the commissioners' court in said county may at any time, and from time to time, at its discretion, create and establish, and may at any time, and from time to time at its discretion alter, change or abolish other road precincts in said county, and may or may not, at any time, and from time to time, at its discretion, appoint road overseers for the road precincts of said county when and if road precincts are created and established; providing for the appointment of foremen to summon out the hands and to take and have immediate charge and supervision of work upon such roads, bridges, culverts and causeways, authorizing the commissioners' court to buy, rent, hire and at any time to sell, such teams, tools, machinery, implements, supplies and material as may be nec-

essary for grading, draining, repairing and otherwise working, improving and opening up the public roads of said county and for constructing, erecting, maintaining and keeping in repair bridges, culverts and causeways thereon, and thereunto adopt such rules, regulations and plans, not inconsistent with law, as said court may deem best; authorizing said court to make and adopt, and have complied with, such rules, regulations and plans for grading, repairing, draining, and otherwise working, improving and opening up the public roads, and for constructing, erecting, maintaining and keeping in repair the bridges, culverts and causeways upon and across the public roads of said county as said court may deem best; providing that those liable to work upon the public roads, bridges, culverts and causeways in said county shall be exempt therefrom for a period of one year by payment to the county of the sum of three dollars and providing other exemptions; providing for keeping a record of and for accounting for money paid to the county under the provisions of this Act and providing compensation therefor, making the county commissioners of said county ex officio road commissioners of said county, prescribing their duties and providing compensation therefor and requiring them to make reports and give bonds as such; providing that this Act shall be cumulative of the General Laws of the State in reference to public road, bridges, culverts and causeways; repealing House Bill No. 256, passed by the Regular Session of the Thirty-second Legislature, approved March 6, 1911, being Chapter 23 of the Special Laws passed by the Thirty-second Legislature at its Regular Session, creating a special road system for said county; and declaring an emergency."

Read first time and referred to Committee on Roads, Bridges and Ferries.

Bills Signed.

The Chair, Lieutenant Governor Hobby, gave notice of signing, and did sign, in the presence of the Senate, after their captions had been read, the following bills:

H. C. R. No. 1, Providing for a committee to canvass the vote for Governor and Lieutenant Governor.

H. C. R. No. 3, Relating to the printing of bills for the Thirty-fifth Legislature.

H. C. R. No. 4, Calling the attention of the Secretary of Navy to the advantages of East Texas as a location for armor plate plant and requesting Texas Congressmen to use their influence to locate a Federal armor plate plant in this section.

H. B. No. 47, A bill to be entitled, "An Act making an emergency appropriation for the support and maintenance of the State Quarantine Station at Brownsville, Texas, and other points within the State for the remainder of the fiscal year ending August 31, 1917, and declaring an emergency."

S. B. No. 40, A bill to be entitled "An Act to make appropriation to cover the cost of a fireproof brick dormitory at the Prairie View State Normal and Industrial College at Prairie View, Waller county, Texas, and declaring an emergency."

S. B. No. 146, A bill to be entitled "An Act to incorporate Hearne Independent School District in Robertson county, Texas, for free school purposes only, etc., and declaring an emergency."

S. B. No. 140, A bill to be entitled "An Act to create a common county line school district, to be known as the Auburn District, to be under the jurisdiction, management and control of the county school board of Ellis county, Texas, and declaring an emergency."

S. B. No. 154, A bill to be entitled "An Act to create a special road law for Llano County, Texas, and to provide for the appointment of a superintendent of public highways and bridges, by the commissioners court, and the fixing of the term of office and salary, and defining his duties."

Senate Concurrent Resolution No. 9.

By Senator Bailey:

Resolved, by the Senate of Texas, the House of Representatives concurring, That the Hon. Judge F. A. Williams of Galveston and the Hon. Nelson W. Phillips, Chief Justice of the Supreme Court of Texas, be requested to address an informal session of the House and Senate upon House Bill No. 38, looking to the relief of the congested dockets of the Supreme

Court, at 8 o'clock p. m. next Monday evening, January 29.

The resolution was read and adopted.

Simple Resolution No. 51.

Whereas, Senate Bill No. 45 was reported out of the committee without a public hearing, and

Whereas, There are a number of citizens and officials who desire to be heard before the Committee; therefore be it

Resolved, That said bill be recommitted to the Committee on Civil Jurisprudence.

KING.

Pending discussion of the resolution Senator Clark moved to table the same, which motion prevailed by the following vote:

Yeas—15.

Alderdice.	Hopkins.
Buchanan of Bell.	Johnson of Hall.
Buchanan of Scurry.	Lattimore.
Clark.	Robbins.
Dayton.	Smith.
Dean.	Strickland.
Decherd.	Westbrook,
Hall.	

Nays—11.

Bailey.	King.
Bee.	McNealus.
Caldwell.	Page.
Gibson.	Parr.
Harley.	Woodward.
Hudspeth.	

Present—Not Voting.

Floyd.

Absent—Excused.

Henderson.	McCollum.
Johnston of Harris.	Suiter.

Morning call concluded.

Bills Read and Referred.

The Chair, Lieutenant Governor Hobby, had referred, after their captions had been read, the following House bills:

H. B. No. 28, referred to the Committee on Civil Jurisprudence.

H. B. No. 32, referred to the Committee on Towns and City Corporations.

H. B. No. 34, referred to the Committee on Towns and City Corporations.

H. B. No. 57, referred to the Committee on Roads, Bridges and Ferries.

H. B. No. 230, referred to the Committee on Educational Affairs.

H. B. No. 240, referred to the Committee on Judicial Districts.

Senate Bill No. 237 Ordered Printed in the Journal.

On motion of Senator Hudspeth, Senate Bill No. 237, together with a petition relating to the same, was ordered printed in today's Journal, and will be found in full in Appendix B.

Senate Bill No. 68.

(Special order.)

The Chair laid before the Senate, on its second reading:

S. B. No. 68, A bill to be entitled, "An Act defining common carrier pipe lines engaged, or to engage in the transportation of petroleum oil; declaring all corporations, persons, partnerships, or associations of persons now engaged, or to hereafter engage in transporting petroleum oil from place to place in this State to be common carriers, declaring such common carriers to be public utilities and making them subject to the provisions of this Act; giving the Railroad Commission of Texas the power to regulate the rate of such transportation by such common carriers; granting them the right to establish, maintain and operate telegraph and telephone lines upon their rights of way in connection with their business, and to build and maintain their lines under and across or along streams, highways, and streets as other common carriers within this State; and providing against discriminations in favor of or against individuals, associations of persons or corporations in the conduct of their business; requiring them to exchange tonnage with other common carriers, and to receive and transport petroleum oil tendered to them for transportation; empowering said commission to make rules and regulations for their conduct, and to require the construction and main-

tenance by them of loading racks and transfer and delivery stations, and the transfer and delivery of petroleum from such common carrier to another, and to fix the charges therefor, and to define merchantable oil, and to fix the amount of deduction to be made therefrom on account of water and other foreign substances, and on account of evaporation and leakage, and giving said commission plenary power to make rules and regulations for the control of such carriers, and power to enforce their rules and regulations under the provisions of this Act; fixing penalties for violation of this Act, and the rules and orders of said commission; making certain violations a criminal offense, and fixing the penalty therefor, and providing means for the recovery of such penalties as are not made criminal, either by the State of Texas or the party aggrieved by such violation, naming the tribunal in which such recovery may be had; providing for the employment of an expert to assist the commission, fixing his salary and making an appropriation therefor; levying a tax to pay such salary and other expenses; repealing all laws in conflict with this Act, providing that the invalidity of any part of this Act shall not invalidate the remaining parts hereof, and declaring an emergency."

The bill was read the second time.

Senator Bee offered the following amendment:

Amend S. B. No. 68 by striking out the words "or tacit" in line 7, page 3, Section 1 of said bill.

Senator Dean offered the following substitute for the pending amendment:

(1) Amend line 7, page 3, of the printed bill by striking out the words "contractual or tacit."

Pending.

Recess.

On motion of Senator King the Senate at 12 o'clock recessed until 2:30 o'clock p. m. today.

After Recess.

(Afternoon Session.)

The Senate was called to order by Lieutenant Governor Hobby.

Senate Bill No. 242—Motion to Recommit.

Senator Hall, by unanimous consent, moved to recommit S. B. No. 242, reported favorably this morning by the Committee on Commerce and Manufactures, and that same be referred to the Committee on Privileges and Elections.

(Senator King in the chair.)

Senator Hudspeth sent up in writing the following substitute for the pending motion:

"I move that Senate Bill No. 242 be recommitted and that the President of the Senate refer said bill to the proper committee and that it is the sense of this body that in the future no bill shall be referred to a committee except by the President of the Senate unless otherwise ordered by two-thirds of the Senate present.

HUDSPETH.

Senator Bailey moved the previous question on the motion of Senator Hall and the pending substitute by Senator Hudspeth.

The motion was properly seconded and the main question was ordered.

Senator Hall withdrew the pending motion and the substitute was divided and the motion to recommit was adopted.

Senator Lattimore moved to rescind the vote by which Senator Hudspeth's motion to recommit was adopted, which motion to rescind was lost by the following vote:

Yeas—10.

Buchanan of Bell.	Lattimore.
Buchanan of Scurry.	Robbins.
Dean.	Smith.
Hopkins.	Westbrook.
Johnson of Hall.	Woodward.

Nays—15.

Alderdice.	Hall.
Bailey.	Harley.
Bee.	Hudspeth.
Caldwell.	King.
Clark.	Page.
Dayton.	Parr.
Floyd.	Strickland.
Gibson.	

Present—Not Voting.

McNealus.

Absent.

Decherd.

Absent—Excused.

Henderson. McCollum.
Johnston of Harris. Suiter.

Actin recurred on the second division of the motion of Senator Hudspeth that in the future all bills shall be referred by the President of the Senate, unless otherwise ordered by a two-thirds vote of the membership of the Senate present.

The motion prevailed.

Bills and Resolutions.

(By unanimous consent.)

By Senator Bee:

S. B. No. 252, A bill to be entitled "An Act to provide for the establishment and management of experimental aparies under the direction of the directors of the Texas Agricultural Experiment Station of the Agricultural and Mechanical College for the purpose of experimenting with the culture of honey bees and studying honey yield conditions and other bee-keeping problems, and making necessary appropriations therefor; designating expenditures and declaring an emergency."

Read first time and referred to Committee on Agricultural Affairs.

By Senator Bee:

S. B. No. 253, A bill to be entitled "An Act to amend Article 3893, Chapter 4, Title 58, of the Revised Civil Statutes of Texas relating to the compensation for ex officio services, and when same may be allowed by the commissioners court, providing that the commissioners court is debarred from allowing compensation for ex officio services to county officials and district attorneys composed of one county, when compensation and excess fees which they are allowed to retain shall reach maximum provided by law, and providing in cases where the compensation and excess fees which such officers are allowed to retain shall not reach the maximum provided for by law, the commissioners court shall allow compensation for ex officio services to county officials and district attorneys in districts composed of one county when in their judgment such is necessary, provided such compensation for ex officio services shall not increase the compensation for the official beyond the maximum of compensation and excess fees

allowed to be retained by him under the law."

Read first time and referred to Committee on Counties and County Boundaries.

By Senator Lattimore:

S. B. No. 254, A bill to be entitled "An Act amending Article 6695 of the Revised Statutes, 1911, conferring upon the Railroad Commission the authority to require two or more railway companies whose lines enter the same city or town under certain conditions, to join in the acquisition, construction and maintenance of union passenger depots, regulating the use of such powers, etc., so as to enlarge such powers and so as to regulate procedure in suits brought for the enforcement of such order or in suits to have such order set aside, etc., and declaring an emergency."

Read first time and referred to Committee on Internal Improvements.

Senate Bill No. 68.

(Pending.)

Action here recurred upon pending business, S. B. No. 68, laid before the Senate on second reading this morning, the question being upon the amendment offered by Senator Bee.

Pending discussion Senator Bee withdrew his amendment, and the substitute by Senator Dean was adopted.

Senator Bee offered the following amendment:

Amend Senate Bill 68 by adding after the word "thereto" in line 18, page 3, section 3, the following words: "as before defined."

The amendment was read and Senator Lattimore offered the following substitute for the same:

(2) Amend bill by striking out all of Section 1, page 3, after the word "hereof" in line 14 of the printed bill.

The substitute was adopted.

The amendment as substituted was then adopted.

Senator Bee offered the following amendment:, which was read and adopted:

(3) Amend Senate Bill No. 68 by inserting after the word "use" in line 3 on page 4 section 3 the word "only."

Senator Bee offered the following amendment:

(4) Amend Senate Bill 68 by striking out the words "interfered with as little as possible" in line 18, page 4, and inserting in lieu thereof in line 18, page 4, section 3; the words, "not interfered with."

The amendment was read and Senator Lattimore offered the following substitute for the same:

Amend the bill by striking out section 3.

Senator Hudspeth moved to table the substitute for the pending amendment.

The motion to table prevailed.

The pending amendment was then adopted.

Senator Dean offered the following amendment, which was read and adopted:

(5) Amend Section 3 by adding after the words "local authority," line 21, page 4, of the printed bill, the following: "And provided that in the exercise of the privileges herein conferred, such pipe lines shall compensate the county or road district, respectively, for any damage done to any public road, in the laying of pipe lines, telegraph or telephone lines, along or across the same; and nothing herein shall be construed to grant any pipe line company the right to use any public street or alley of any incorporated city or town except by express permission from the city council or governing authority thereof; and nothing herein shall be construed to permit any company to use any street or alley of any unincorporated town, except by express permission of the commissioners court of the county in which such towns are located."

Senator Bee offered the following amendment, which was read and adopted:

(6) Amend Senate Bill 68 by adding after the word "and" in line 20, page 4, Section 3, the words "the restoration thereof to be."

Senator Bee offered the following amendment:

(7) Amend Senate Bill 68 by striking out the words "reasonable and just" in line 23, page 4, Section 4.

Pending discussion Senator Hudspeth moved to table the pending amendment, which motion to table was lost.

The amendment was then adopted.

Senator Bee offered the following amendments, which were read and adopted, being voted upon separately:

(8) Amend Senate Bill 68 by striking out in line 27, page 4, Section 4, the word "reasonable."

(9) Amend Senate Bill 68 by striking out the words "and at least ten days' notice" in lines 32 and 33 on pages 4 and 5, Section 4, and insert in lieu thereof the following words: "and at least ten days and not more than thirty days' notice."

S. B. No. 68, pending.

(Lieutenant Governor Hobby in the chair.)

Bills Signed.

The Chair, Lieutenant Governor Hobby, gave notice of signing, and did sign, in the presence of the Senate, after their captions had been read, the following bills:

H. B. No. 275, A bill to be entitled "An Act to reorganize the Thirty-second, Thirty-ninth and Seventieth Judicial Districts so as to declare what counties compose the Thirty-second, Thirty-ninth and Seventieth Judicial Districts; to fix the time for holding court in the various counties of said districts; to make the processes issued to serve before this Act takes effect, including recognizances and bonds, returnable to the terms of court as herein fixed, and continuing in office judges and district attorneys in each of said districts; to repeal all laws in conflict herewith, and declaring an emergency,"

H. B. No. 248, A bill to be entitled "An Act to amend Section 1, Chapter 48, General Laws of Texas, creating Willacy County, approved March 11, 1911; and to amend Section 1, Chapter 10, General Laws of Texas, creating Kleberg County, approved February 27, 1913; the purpose of this Act being to change and make the boundary line between said counties conform to the result of elections duly called and held in said counties, the returns of which have been duly estimated, tabulated, certified to, sealed, endorsed and transmitted to the Speaker of the House of Representatives, in the manner and form prescribed by law, whereby certain territory was detached from Willacy County and attached to Kle-

berg County, and whereby certain land, waters and territory were detached from Kleberg and attached to Willacy County; to repeal all laws in conflict herewith, and declaring an emergency."

H. C. R. No. 2, designating March second of each year as "Sam Houston Memorial Day."

H. B. No. 61, A bill to be entitled "An Act to create the Palo Pinto Independent School District in Palo Pinto County, Texas, for free school purposes, etc., and declaring an emergency."

Message From the House.

Hall of the House of Representatives,
Austin, Texas, January 29, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bill:

S. B. No. 9, A bill to be entitled "An Act to amend Section 116 of Chapter 96, Acts of Regular Session of the Thirty-second Legislature, providing for the granting of teachers' certificates, and declaring an emergency," with amendments.

Respectfully,

BOB BARKER,

Chief Clerk, House of Representatives

Simple Resolution No. 52.

(By unanimous consent.)

Whereas, at this time, owing to the great demand for Senate Journals to be mailed out daily, the mailing room is in a greatly congested condition; therefore, we move that the Lieutenant Governor be empowered to name an assistant to that room with power to transfer to and from that room as business lessens or increases, and

Whereas, there is now a worthy young lady on the floor of the Senate, who has been living for fifteen years at the State Orphans' Home at Corsicana, Texas, and who has had the misfortune of having her right hand ground off in the defective laundry machinery of that institution, and is dependent upon the State further for a livelihood; therefore, be it

Resolved, That the President of the Senate be instructed to appoint Miss

Lavinia Harvill as an assistant in the mailing room.

Alderdice, Westbrook, Bee, Page, Robbins, McNealus, Lattimore, Clark, Buchanan of Bell, Smith, Strickland, Buchanan of Scurry, Harley, Hopkins, Gibson, Hudspeth, Caldwell, Parr.

The resolution was read and

Senator King moved to refer the same to the Committee on Rules.

Senator Clark moved to table the motion of Senator King, which motion to table was adopted by the following vote:

Yeas—20.

Alderdice.	Hopkins.
Bee.	Hudspeth.
Buchanan of Bell.	Lattimore.
Buchanan of Scurry.	McNealus.
Caldwell.	Page.
Clark.	Parr.
Dayton.	Robbins.
Gibson.	Smith.
Hall.	Strickland.
Harley.	Westbrook,

Nays—5.

Bailey.	Floyd.
Dean.	King.
Decherd.	

Absent.

Johnson of Hall. Woodward.

Absent—Excused.

Henderson.	McCollum.
Johnston of Harris.	Sulter.

Action then recurred upon the resolution and the same was adopted.

Senator Caldwell moved to reconsider the vote by which S. R. No. 52 was adopted and table the motion to reconsider.

The motion to table prevailed.

Senate Bill No. 68.

(Pending.)

Action again recurred upon pending business, S. B. No. 68, and

Senator Bee offered the following amendments, which were read and adopted, being voted on separately:

(10) Amend Senate Bill 68 by striking out the word "reasonable" in lines 15 and 16, page 5, Section 5.

(11) Amend Senate Bill 68 by

striking out the word "reasonable" in line 17, page 5, Section 5.

(12) Amend Senate Bill 68 by striking out the words "when business will warrant the expenditure" in lines 19 and 20, page 5, Section 5.

(13) Amend Senate Bill 68 by striking out the word "reasonable" in line 11, page 7, Section 8.

Senator Bee offered the following amendment:

Amend Senate Bill No. 68 by adding after the word "rules" in line 24, page 5, Section 5, the words "within sixty days after this Act shall take effect."

The amendment was read and

Senator Lattimore offered the following substitute for the pending amendment, which was adopted:

(14) Amend bill, page 5, by striking out all of lines 24, 25, 26, 27 and including the word "evaporation" in line 28.

Action then recurred on the amendment as substituted and the same was adopted.

Senator Bee offered the following amendments, which were read and adopted, being voted on separately:

(15) Amend Senate Bill 68 by striking out the words "be determined to be just and reasonable" in lines 1 and 2, page 7, Section 7, and inserting in line 1, page 7, Section 7, after the word "may," the word "determine."

(16) Amend Senate Bill 68 by striking out in line 11, page 7, Section 8, the word "reasonable."

Senator Lattimore offered the following amendments, which were read and adopted, being voted on separately:

(17) Amend bill, page 2, by striking out all after the word "hire" in line 20, down to and including the end of line 21.

(18) Amend bill, page 8, line 31, by striking out all of said line after the word "available" and by striking out all of lines 1 and 2 on page 9.

Senator Bee offered the following amendment, which was read and adopted:

(19) Amend Senate Bill 68 by striking out after the word "hire" in line 26, page 2, Section 1, the words "compensation or consideration of any kind, paid or received for such transportation."

Senator Lattimore offered the following amendment:

(20) Amend the bill by striking

out Section 14 and inserting in lieu thereof the following: "This Act shall be cumulative of all laws of this State which are not in direct conflict herewith, regulating the control of pipe line companies or similar corporations in this State."

Pending discussion Senator Hudspeth moved to table the amendment, which motion to table was lost by the following vote:

Yeas—10.

Bailey.	Hall.
Buchanan of Bell.	Hudspeth.
Caldwell.	King.
Clark.	Page.
Dayton.	Parr.

Nays—15.

Alderdice.	Johnson of Hall.
Bee.	Lattimore.
Buchanan of Scurry.	McNealus.
Dean.	Robbins.
Decherd.	Smith.
Gibson.	Strickland.
Harley.	Westbrook.
Hopkins.	

Present—Not Voting.

Floyd.

Absent.

Woodward.

Absent—Excused.

Henderson.	McCollum.
Johnston of Harris.	Suiter.

Action then recurred upon the adoption of the amendment and the same was adopted.

Senator Gibson moved to rescind the action of the Senate by which the following amendment by Senator Lattimore was adopted:

(14) Amend the bill, page 5, by striking out all of lines 24, 25, 26, 27, including the word "evaporation" in line 28.

The motion prevailed.

Senator Lattimore then withdrew the foregoing substitute for the amendment by Senator Bee.

Action then recurred on the following amendment by Senator Bee, and the same was tabled:

Amend Senate Bill No. 68 by adding after the word "rule" in line 24, page 5, Section 5, the words "within sixty days after this act shall take effect."

Senator Buchanan of Scurry offered the following amendment, which was read and adopted:

(21) Amend the printed bill, line 32, page 2, by striking out the word "or" after the word "hire" and inserting the word "of" in lieu thereof.

Senator Lattimore offered the following amendment, which was read and adopted:

(22) Amend caption, line 12, by striking out, in line 12, page 2, of printed bill, the words "repealing all laws in conflict with this Act" and inserting in lieu thereof the words "making this Act cumulative."

The bill was read second time and passed to engrossment.

On motion of Senator McNealus, the constitutional rule requiring bills to be read on three several days was suspended and S. B. No. 68 put on its third reading and final passage by the following vote:

Years—23.

Bailey.	Hopkins.
Bee.	Hudspeth.
Buchanan of Bell.	Johnson of Hall.
Buchanan of Scurry.	King.
Caldwell.	Lattimore.
Clark.	McNealus.
Dayton.	Page.
Dean.	Parr.
Decherd.	Strickland.
Floyd.	Westbrook.
Hall.	Woodward.
Harley.	

Present—Not Voting.

Alderdice. Robbins.

Absent.

Gibson. Smith.

Absent—Excused.

Henderson. McCollum.
Johnston of Harris. Sulter.

The bill was laid before the Senate, read the third time and passed by the following vote:

Yeas—25.

Alderdice.	Dean.
Bailey.	Decherd.
Bee.	Floyd.
Buchanan of Bell.	Hall.
Buchanan of Scurry.	Harley.
Caldwell.	Hopkins.
Clark.	Hudspeth.
Dayton.	Johnson of Hall.

King.	Robbins.
Lattimore.	Strickland.
McNealus.	Westbrook.
Page.	Woodward.
Parr.	

Absent.

Gibson. Smith.

Absent—Excused.

Henderson. McCollum.
Johnston of Harris. Sulter.

Senator McNealus moved to reconsider the vote by which S. B. No. 68 was passed and table the motion to reconsider.

The motion to table prevailed.

Senate Bill No. 9—House Amendment Concurred In.

Senator Johnson of Hall called up for consideration of the House amendment to

S. B. No. 9, A bill to be entitled "An Act to amend Section 116 of Chapter 96, Acts of Regular Session of the Thirty-second Legislature, providing for the granting of teachers' certificates, and declaring an emergency."

The following House amendment to S. B. No. 9 was read and concurred in by vote of the Senate, on motion of Senator Johnson of Hall:

Amend by adding after the word "authority," in line 37, page 1, the following paragraph:

"Any school applying for approval under the provisions of this act shall pay a fee of twenty-five dollars, and each applicant for teacher's certificate on college credentials shall pay a fee of one dollar to cover the expenses of inspection and standardization of approved colleges. It shall be the duty of the State Superintendent of Public Instruction to appoint a suitable person or persons of recognized college standing, who shall make a thorough inspection of the equipment and standards of instruction maintained in each school applying for approval under this act and who shall make a detailed report to the State Board of Examiners for their

consideration before any recommendation is made to the State Superintendent of Public Instruction for his approval. The State Superintendent shall have each school receiving the benefits of this act thoroughly inspected from year to year as to its standards and facilities of instruction, and he shall have authority to suspend any school from the benefits of this act which fails for any reason to maintain the approved standards of classification."

Senate Bill No. 83.

(Special order.)

The Chair laid before the Senate on its second reading:

S. B. No. 83, A bill to be entitled "An Act to amend Article 1307, Chapter 24, Title 25, Revised Civil Statutes of 1911, as amended by Chapter 152 of General Laws passed by the Thirty-fourth Legislature, approved April 7, 1915, relating to corporations formed for the purpose of storing, transporting, buying and selling oil and gas and other products, and declaring an emergency."

Pending.

Adjournment.

At 5:37 o'clock, the Senate, on motion of Senator McNealus, adjourned until 10 o'clock tomorrow morning.

APPENDIX A

Petitions and Memorials.

Senator King sent up and had read a number of telegrams from the different unions of Port Arthur, Texas, urging him to vote for the confirmation of C. W. Woodman as Labor Commissioner.

Senator Smith sent up a petition from Timpson, Texas, protesting against a bill that has been introduced allowing cities and towns of 5000 inhabitants to govern their own amusements.

Senators Robbins, Bailey, Lattimore, Johnson and Bee offered petitions from their respective districts urging their influence against House

Bill No. 24, prohibiting the use of automatic and repeating guns.

The Pharmacists' Bill No. 16 is meeting with strong opposition by citizens from the rural districts, as indicated by petitions to Senators Floyd, Buchanan of Bell, Lattimore, Woodward and Bee; all petitions were numerous signed.

Senator Dayton had read a telegram from citizens of Sherman asking him to fight the Chiropractic Bill.

Senator Robbins had read a telegram from the mayor of Corsicana stating that at a well attended mass meeting at that place the citizens adopted resolutions condemning any bill permitting towns of 5000 inhabitants to govern their own amusements.

Senator Lattimore offered petitions from members of the medical societies of Parker, Palo Pinto and Tarrant Counties opposing the proposed Optometry Bill.

A petition to Senator Westbrook from Commerce, Texas, was offered, petitioning him to support a bill providing for State inspection of private institutions.

The citizens of Greenville, constituents of Senator Westbrook recommend that he support H. B. No. 359, limiting length of freight trains and the "Anti Black Listing Law."

Senator Hudspeth offered a petition from the business men and shippers of El Paso requesting him to oppose the "New R. R. Car Shed Bill," known as S. B. No. 59.

Engrossing Committee Reports.

Committee Room,

Austin, Texas, January 29, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: Your Committee on Engrossed Bills has had Senate Bill No. 61, carefully compared, and finds the same correctly engrossed.

ALDERDICE, Chairman.

Committee Room.

Austin, Texas, January 29, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: Your Committee on Engrossed Bills has had Senate Bill No. 211 carefully compared, and finds the same correctly engrossed.

ALDERDICE, Chairman.

Committee Room.

Austin, Texas, January 29, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: Your Committee on Engrossed Bills had had Senate Bill No. 217 carefully compared, and finds the same correctly engrossed.

ALDERDICE, Chairman.

Committee Reports.

(Majority Report.)

Committee Room.

Austin, Texas, January 29, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: We, a majority of your Committee on Criminal Jurisprudence, to whom was referred

S. B. No. 80,

Have had the same under consideration, and beg leave to report the same back to the Senate, with the recommendation that it do not pass, but that the following Committee Substitute for S. B. No. 80 do pass in lieu thereof.

By Committee. C. S. for S. B. No. 80.

A BILL

To Be Entitled

An Act to amend Title 7, Articles 302 and 303 of the Penal Code of the State of Texas so that the same shall read as hereinafter set out, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That Article 302, Title 7, of the Penal Code of the State of Texas, be amended so as to hereafter read as follows:

Article 302. Any merchant, grocer or dealer in wares and merchandise, or trader in any business whatsoever, or the proprietor of any place of public amusement, circus, theater, picture show, motion picture, motion picture show, vaudeville theater, playhouse, opera house or other house, building, edifice or tenement by whatever name designated which is or shall hereafter be used for a place of public amusement, whether an admission fee thereto is charged or not, or the agent or employe of any such person, association of persons, or corporation, who shall so

sell, barter or permit any of said places to be open for the purpose of traffic on Sunday, shall be punished by a fine of not less than twenty dollars nor more than fifty dollars.

Sec. 2. The term "place of public amusement" shall be construed to mean shows, circuses, theaters, picture shows, motion picture shows, vaudeville shows and theaters, variety theaters, dramas, operas, playhouses and such other places as may be kept open for the purpose of traffic or public amusement on Sunday and shall include dance houses, disorderly houses, low dives and other places of like character, and the enumeration of these shall not be held to exclude any others therefrom.

Sec. 3. The habitual, frequent, actual, threatened or contemplated selling, bartering or exchanging, opening, keeping open or permitting to be kept open which are forbidden in Section 1 of this article, may be enjoined at the suit of either the State or any citizen, and it shall not be necessary for the complainant to show that he is or has been injured either personally or in his property rights by the act complained of, and each separate act so forbidden shall or may be the subject of a separate suit for injunction.

Article 303: Exceptions from operation of preceding article.—The preceding article shall not apply to markets or dealers in provisions as to sales of provisions made by them before 9 o'clock a. m., nor to the sale of burial or shrouding material, newspapers, ice, ice cream, milk, gasoline, automobile oils, nor automobile accessories, nor to the sending of telegraph or telephone messages at any hour of the day, nor to keepers of drug stores, hotels, boarding houses, restaurants, livery stables, bathhouses, or ice dealers, nor to telegraph or telephone offices, nor to garages.

Section 3. The fact that there is now no adequate law regulating the Sunday closing of moving picture shows and similar places creates an emergency and an imperative necessity that the constitutional rule requiring bills to be read on three several days be suspended and that this bill be placed on its third reading and final passage and take effect and be in force from and after its passage, and it is so enacted.

PAGE, Chairman.

Minority Report.

Committee Room.

Austin, Texas, January 29, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: We, a minority of your Committee on Criminal Jurisprudence, to whom was referred

S. B. No. 80, A bill to be entitled "An Act to amend Title 7, Article 302, of the Penal Code of the State of Texas so that the same shall read as hereinafter set out, and to further amend said Title 7 by inserting after Article 302 a new Article to be known as 302a. Said amended Article 302 and 302a being hereafter fully set forth, and declaring an emergency."

Have had the same under consideration and beg leave to report the same back to the Senate with the recommendation that it do not pass.

Hudspeth, Caldwell, King, Hall.

Committee Room,

Austin, Texas, January 29, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: Your Committee on Judicial Districts, to whom was referred

S. B. No. 115, a bill to be entitled "An Act to create the Eighty-first Judicial District of the State of Texas, to reorganize the Thirty-sixth and Forty-ninth Judicial Districts of said State, to provide for the appointment of a district attorney in said Thirty-sixth Judicial District as reorganized, and to provide for the appointment of a district judge for said Eighty-first Judicial District, and to provide for the continuance in office of the present district attorney of the Thirty-sixth Judicial District of Texas as district attorney of the Eighty-first Judicial District of Texas, residing in Wilson County, Texas; to provide for the continuance in office of the present district judge and district attorney of the Forty-ninth Judicial District of Texas; to fix the time of holding the district courts of said districts; to provide for the time when this Act shall take effect; to make all process heretofore issued, as well as bonds and recognizances heretofore entered into, conform thereto; to provide that the grand and petit jurors drawn and selected under existing laws in any of the counties of said judicial districts shall be considered legally drawn and

selected for the term of the district court of their respective counties, held after this Act takes effect and providing that this Act take effect on August 1, 1917; to repeal all laws and parts of laws in conflict herewith and declaring an emergency."

Have had the same under consideration and I am instructed to report the same back to the Senate with the recommendation that it do pass.

BUCHANAN of Scurry,
Chairman.

Committee Room,

Austin, Texas, January 29, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: Your Committee on Judicial Districts, to whom was referred

S. B. No. 216, a bill to be entitled, "An Act to reorganize the Seventy-sixth and Seventh Judicial Districts of the State of Texas, so as to declare what counties compose the Seventy-sixth Judicial District and the Seventh Judicial District; to fix the time of holding court in the various counties of said district; to make the process issued to be served before this Act takes effect, including recognizance and bonds, returnable to the terms of courts as herein fixed, and continuing in office judges and district attorneys in each of said districts; to repeal all laws in conflict herewith, and declaring an emergency."

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass and be not printed.

BUCHANAN of Scurry,
Chairman.

Committee Room,

Austin, Texas, January 29, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: Your Committee on Civil Jurisprudence, to whom was referred

S. B. No. 5, a bill to be entitled "An Act to amend Article 1521 of the Revised Statutes, defining the jurisdiction of the Supreme Court, as amended by the Acts of 1913, page 107, and declaring an emergency."

Have had the same under consideration and I am instructed to report the same back to the Senate with the recommendation that it do pass.

LATTIMORE, Vice Chairman.

(Floor Report.)

Senate Chamber,
Austin, Texas, January 29, 1917.

Hon. W. P. Hobby, President of the Senate.

We, your Committee on Mining, Irrigation and Drainage, to whom was referred

S. B. No. 137, A bill to be entitled "An Act to authorize the commissioners courts of the several counties of Texas to create and establish water improvement districts, to construct reservoirs, dams, canals, laterals, ditches, pumping plants and other internal improvements necessary to irrigation systems; to order and hold elections for the purpose of voting on irrigation propositions and establishment of such districts, and provide for the careful government and operation of such districts, and authorize such districts to issue bonds and assess property for taxation, and to levy and collect taxes in payment of bonds issued for such irrigation improvements and the maintenance thereof, and authorize such districts to levy assessments for the maintenance thereof, and to assess and collect taxes for the payment of bonds issued or interest thereof, and the expenses of assessing and collecting such taxes; authorizing the election of directors and assessors and collectors, and authorizing the appointment of all other necessary officers, attorneys, managers, engineers and employes of such district for the purpose of carrying into effect the provisions of this Act; providing for determining the lands included in said district and the addition of other territory to same, and the exclusion of territory from same; granting right of eminent domain for such district and authorizing such districts to acquire by purchase, gift, grant or condemnation for such district the title to any right of way and other necessary property, and providing for the payment thereof; providing for the acquiring of water rights for such districts, and the sale of water; authorizing such districts to do all things necessary for the establishment and maintenance of such districts and construction and maintenance of all necessary improvements, and to levy and collect assessments for the maintenance thereof; providing for the selection of depositories for the maintenance of an office, for the keeping of books and accounts by

such district; fixing a lien and penalties to enforce the collection of taxes; fixing a lien and penalty to enforce the collection of assessments; providing for the filing of suits to establish the validity of the formation of such districts, and providing for the Attorney General of the State to file answers in such proceedings, and fixing the venue of such actions; authorizing the addition of territory within two or more counties to establish districts, and authorizing the formation of districts including territory in two or more counties; providing for election in such district and the method of making returns and declaring the result of such election; providing that suit may be instituted in the name of the State of Texas by the Attorney General; providing for the distribution of water among the water users of such districts; providing generally a complete system for the formation of water improvement districts, the governing of such districts and the dissolution of such districts; providing that such districts may acquire existing drainage improvements and pay the debts of same; providing that such districts may construct drainage ditches and improvements and may construct levees and may pay for all such improvements; providing for the validation and continuing in force of all irrigation districts heretofore formed and now existing in the State of Texas; repealing an Act of the Thirty-third Legislature, being Chapter 172 of said Acts of 1913 of the State of Texas, and declaring an emergency."

Have had the same under consideration and we now beg leave to report the bill back to the Senate with the recommendation that it do pass.

Hall, Chairman; Clark, Caldwell, Woodward, Bailey, Harley, Dean, Robbins.

(Floor Report.)

Senate Chamber,
Austin, Texas, January 29, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: We, your Committee on Mining, Irrigation and Drainage, to whom was referred

S. B. No. 136, A bill to be entitled "An Act to provide a more adequate system of laws relating to irrigation, and declaring the unappropriated waters of the State the prop-

erty of the State; authorizing their appropriation, storage and diversion for beneficial uses; perpetuating the Board of Water Engineers and prescribing its powers, duties and compensation; defining water rights and prescribing the method of acquiring, perfecting and preserving same; requiring application to be made to the Board of Water Engineers for permits to construct storage, diversion and distribution works, and prescribing the method thereof; limiting the right to the waters of the State to beneficial uses, and declaring forfeiture for abandonment of use; prescribing standards for the measurement of water; providing a method for the determination of water rights by the Board of Water Engineers; authorizing appeals from the decisions of the State Board of Water Engineers and regulating the manner thereof; prescribing the method of serving notice on claimants and appropriations of water, and declaring the effects of failure to observe the same; authorizing the issuance of certificates of water rights and the recording thereof; fixing certain fees; creating the office of Water Commissioner and prescribing the duties and compensation thereof; authorizing the appointment of special assistants and prescribing their duties and compensation; dividing the State into water divisions and providing for water districts; prescribing the method of determining and recording titles of irrigation works and establishing the period of limitation to quiet titles thereto; regulating partnership ditches, conferring the right of eminent domain in aid of construction of irrigation works, prohibiting the seeding of Johnson grass or Russian thistle on irrigation canals; prescribing penalties for violation of the provisions of this Act; requiring the making of annual report to the Board of Water Engineers; requiring the control of flowing artesian wells; authorizing the chartering of corporations to construct and operate irrigation and other works; authorizing contracts for the supply and delivery of water, and creating liens to secure payment thereof; authorizing the acquisition of lands by irrigation companies and requiring the alienation thereof, repealing all laws in conflict herewith, and declaring an emergency."

Have had the same under consid-

eration and we now beg leave to report the bill back to the Senate with the recommendation that it do pass.
Hall, Chairman; Clark, Caldwell, Woodward, Bailey, Dean, Harley, Robbins.

Committee Room.

Austin, Texas, January 29, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: We, your Committee on Civil Jurisprudence, to whom was referred

S. B. No. 210, A bill to be entitled "An Act to permit any joint owner or claimant of real estate or of any interest therein to authorize an attorney to bring suit to partition real estate, and providing court hearing partition suit shall allow such attorney bringing suit a reasonable attorney's fee to be taxed up and paid out as court costs in such suit,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass with the following amendments:

Amend the bill by striking out the word "such" in line 4 of the bill, and by striking out the word "his" in line 5 of the bill, and by adding the letter "s" to the word attorney in line 4 of the bill, and by striking out the period at the end of the bill, and replacing same by a comma, and adding the following: "Provided the court may, in its discretion, fix reasonable fees for attorneys representing the owners of interests in the land in such cases, same to be taxed as costs in cases where the land is partitioned by such judgments."

LATTIMORE, Vice-Chairman.

Committee Room.

Austin, Texas, January 29, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: We, your Committee on Civil Jurisprudence, to whom was referred

S. B. No. 35, A bill to be entitled, "An Act to amend Article 1521 of the Revised Statutes of 1911, as amended by an Act of the Thirty-third Legislature of Texas, approved March 28, 1913, and entitled, 'An Act to amend Articles 1521, 1522, 1543, 1544 and 1526 of the Revised Civil Statutes of 1911, defining the

original and appellate jurisdiction of the Supreme Court, and regulating practice therein, and declaring an emergency,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass.

LATTIMORE, Vice-Chairman.

Committee Room.

Austin, Texas, January 29, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: We, your Committee on Finance, to whom was referred

S. B. No. 203, A bill to be entitled, "An Act to make an emergency appropriation to construct and equip a fireproof dormitory, complete the administration building and to provide summer support for the College of Industrial Arts, and declaring an emergency,"

Have had the same under consideration and beg leave to report the same back to the Senate with the recommendation that it do pass.

HUDSPETH, Chairman.

Committee Room.

Austin, Texas, January 29, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: We, your Committee on Constitutional Amendments, to whom was referred

S. B. No. 231, A bill to be entitled "An Act authorizing the State Normal School Board of Regents to purchase the properties of the East Texas Normal College, located at Commerce, in Hunt County, Texas, in so far as the appropriation made provides for the purpose and to receive the balance of the value thereof as a donation in the event the board should find the facts stated in the preamble to this bill substantially true, and providing that if the board should not find the properties equal to the value stated in the preamble they may decline to purchase the property until further directed by the Legislature; providing for an examination of the title to the property by the Attorney General, the execution of deeds and bills of sale to the Governor of the State for the use and benefit of the State; creating a normal school to be one of the normal schools of the State, to consist of the

original equipment properties and buildings of the present existing East Texas Normal College, located at Commerce, as aforesaid; providing that said normal college shall be conducted as other State normals, and under the management and control of said board; declaring that all laws of the State applicable to State normals shall be applicable to said East Texas Normal College; providing that the appropriation shall not be paid over in the consummation of the purchase to the properties here referred to prior to the 31st of August, A. D. 1916, authorizing the said board after the purchase of the property to permit the school to continue under its present management as a private institution until the Thirty-sixth Legislature makes an appropriation for its support and maintenance; appropriating the sum of \$80,000 for the purchase of said property, and declaring an emergency,"

Have had same under consideration, and I am instructed to report same back to the Senate with the recommendation that it do pass with the following amendments:

Amend the bill by adding just before the enacting clause the following:

Whereas, the citizens of said town of Commerce own a plot of ground consisting of about five acres on which there is a three-story brick dormitory, also owned by the citizens of said town of Commerce, which they propose to donate to the State for use by the Normal College herein-after referred to, and, the said five acres above referred to being a part of the land herein referred to as the campus of said institution, and,

Whereas, said town of Commerce is also willing to make a valid contract to furnish such water as may be needed in the operation of said Normal School, and,

Whereas, said citizens of Commerce have proposed to the Legislature a donation of said property herein above described; provided, that the State will pay therefor the sum of \$80,000.00 to the founder of said school, and who is now owner thereof, except the said five acres of land and the brick dormitory thereon, now, therefore,

Be it enacted by the Legislature of the State of Texas:

Amend bill, Section 1, by making it read as follows:

Section 1. That the State Normal School Board of Regents is hereby authorized and empowered to purchase the aforesaid property of said East Texas Normal College insofar as the appropriation herein made provides for a purchase, in the event said board shall find the facts stated herein substantially true, and that said property including said five acres of land and brick dormitory thereon, is reasonably worth said sum of \$175,000.00. But if in the opinion of said board said property is not reasonably worth said sum of \$175,000.00, then they are authorized in their discretion to purchase said property by paying therefor such pro rata part of \$80,000.00 as the value of said property, as they may determine it, shall bear to said sum of \$175,000.00, provided, that said citizens of Commerce shall donate to the State of Texas, for and as part of said Normal School said five acres of ground and the City of Commerce shall enter into a valid contract to furnish free of charge to the State for said Normal School all water used by said institution. In the event of said purchase of said property, said board shall cause the title thereto to be examined by the Attorney General, and if approved, then shall take deeds covering all of said land and bill of sale covering said library and other personal property belonging to said East Texas Normal College, in which deeds and bills of sale, said property shall be conveyed to the Governor of the State of Texas, and his successors in office for the use and benefit of the State of Texas, and said school.

Amend bill, Section 5 by making it read as follows:

Section 5. The sum of \$80,000.00, or so much thereof as may be necessary, is hereby appropriated out of any funds in the Treasury not already appropriated, for the purpose of carrying into effect the provisions hereof in the purchase of the property aforesaid.

Amend bill, page 3, line 4, by adding to the end of the paragraph after the figures "\$175,000.00, and," the following:

"The citizens of Commerce, Texas, further obligate themselves to purchase and present to the State ten (10) acres of land either joining said campus of said East Texas Normal

College, or of such proximity to the said campus as to be of use to the said institution as a part of the campus, making forty acres of the total amount of land in said campus, and,"

Amend the bill, page 4, section 4, lines 12 and 13, by striking out the words: "upon nominal rental of the property," and by inserting in lieu thereof the following: "under the direction of the State Normal Board of Regents; and the citizens of Commerce obligate themselves to pay for the maintenance of said institution under its present management,"

WESTBROOK, Chairman.

Committee Room,

Austin, Texas, January 29, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: We, your Committee on Education, to whom was referred

S. B. No. 153, A bill to be entitled "An Act creating the Pleasanton Independent School District, covering the same territory heretofore known as Common School District No. 1 in Atascosa County, Texas,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass, but be not printed.

BEE, Chairman.

Committee Room,

Austin, Texas, January 29, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: We, your Committee on Education, to whom was referred,

H. B. No. 269, A bill to be entitled "An Act creating the Odem Independent School District, known as Common School District No. 7, in San Patricio County, Texas, and including within its limits the Town of Odem," etc.

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass, but be not printed.

BEE, Chairman.

Committee Room,

Austin, Texas, January 29, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: Your Committee on Education, to whom was referred

S. B. No. 73, a bill to be entitled "An Act to establish a branch of the

Agricultural and Mechanical College of Texas in the semi-arid region of Western Texas, lying west of the ninety-eighth meridian and north of the twenty-ninth parallel; providing for the location of such college; its government and the control of its finances; defining its leading object and prescribing generally the nature and scope of instruction to be given; providing for instruction of all students of such college in military science and for the military discipline of all students; conferring upon the board of directors of said college the right of eminent domain; making necessary appropriations for the location, establishment and maintenance of said college, and declaring an emergency,

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass.

BEE, Chairman.

Committee Room,

Austin, Texas, January 29, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: Your Committee on Commerce and Manufactures, to whom was referred

S. B. No. 242, a bill to be entitled "An Act to provide that women may vote in all primary elections in Texas; prescribing qualifications and declaring an emergency,"

Have had the same under consideration and I am instructed to report the same back to the Senate with the recommendation that it do pass.

LATTIMORE, Chairman.

Committee Room,

Austin, Texas, January 29, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: Your Committee on Education, to whom was referred

S. B. No. 82, a bill to be entitled "An Act to establish a branch of the Agricultural and Mechanical College of Texas in the region east of the ninety-sixth meridian; providing for the location of such college, its government and control of its finances; defining its leading object and prescribing generally the nature and scope of instruction to be given; providing for the instruction of all students of such college in military science and for the military discipline of all students; conferring upon the

board of directors of said college the right of eminent domain; making necessary appropriations for the location, establishment and maintenance of said college, and declaring an emergency,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass.

BEE, Chairman.

Committee Room,

Austin, Texas, January 29, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: Your Committee on Education, to whom was referred

S. B. No. 120, a bill to be entitled "An Act to establish a branch of the Agricultural and Mechanical College of Texas in that portion of Western Texas lying west of the ninety-eighth meridian and north of the thirtieth parallel; providing for the location of such college, its government and control of its finances; defining its leading objects and prescribing generally the nature and scope of instruction to be given; providing for the instruction of all students of such college in military science and for the military discipline of all students; conferring upon the board of directors of said college the right of eminent domain; making the necessary appropriations for the location, establishment and maintenance of said college, and declaring an emergency,"

Have had the same under consideration and I am instructed to report the same back to the Senate with the recommendation that it do pass.

BEE, Chairman.

APPENDIX B.

By Senators Hudspeth, S. B. No. 237.
Caldwell, Smith, Hall,
Page, Westbrook,
Johnson of Hall,
Parr, Gibson, Woodward,
Strickland.

A BILL

To be entitled

An Act to amend Chapter 179 of the General Laws of the State of Texas passed at the regular session of the Thirty-third Legislature, entitled: "An Act relating to employers' liability and providing for the com-

pensation of certain employes, and their representatives and beneficiaries, for personal injuries sustained in the course of employment; and for deaths resulting from such injuries, and to provide and determine in what cases compensation shall be paid, and to make the payment thereof more certain and prompt by the creation of an insurance association to insure and guarantee such payments and of an industrial accident board for the investigation of claims and for the adjudication thereof for consenting parties, fixing the membership and powers of said board and its compensation and duties, and the method of its appointment, and the term of office of its members and fixing also the powers, duties and liabilities of said insurance association and the extent of control over same to be exercised by the Commissioner of Banking and Insurance, and providing also for the insurance of payments of compensation to employes by certain other insurance companies and organizations, and declaring an emergency," and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That Chapter 179, entitled: "An Act relating to employers' liability and providing for the compensation of certain employes, and their representatives and beneficiaries, for personal injuries sustained in the course of employment, and for deaths from such injuries, and to provide and determine in what cases compensation shall be paid, and to make the payment thereof the more certain and prompt by the creation of an insurance association to insure and guarantee such payments and of an industrial accident board for the investigation of claims and for the adjudication thereof for consenting parties, fixing the membership and powers of said board and its compensation and duties, and the method of its appointment, and the term of office of its members, and fixing also the powers, duties and liabilities of said insurance association and the extent of control over the same to be exercised by the Commissioner of Banking and Insurance,

and providing also for the insurance of payments of compensation to employes by certain other insurance companies and organizations, and declaring an emergency," be and the same is hereby amended so as to hereafter read as follows:

Part I.

Section 1. In an action to recover damages for personal injuries sustained by an employe in the course of his employment, or for death resulting from personal injury so sustained, it shall not be a defense:

1. That the employe was guilty of contributory negligence.

2. That the injury was caused by the negligence of a fellow employe.

3. That the employe had assumed the risk of the injury incident to his employment; but such employer may defend in such action on the ground that the injury was caused by the willful intention of the employe to bring about the injury, or was so caused while the employe was in a state of intoxication.

4. Provided, however, that in all such actions against an employer who is not a subscriber, as defined hereafter in this Act, it shall be necessary to a recovery for the plaintiff to prove negligence of such employer or some agent or servant of such employer acting within the general scope of his employment.

Sec. 2. The provisions of this Act shall not apply to actions to recover damages for the personal injuries nor for death resulting from personal injuries sustained by domestic servants, farm laborers, nor to employes of any firm, person or corporation having in his or their employ less than three (3) employes, nor to the employes of any person, firm or corporation operating any steam railway as a common carrier. Provided, however, that the exceptions contained in this section shall not apply to electric street railways or interurban railways operated in this State; and provided further that any employer of three or more employes at the time of becoming a subscriber shall remain a subscriber subject to all the rights, liabilities, duties and exemptions of such, notwithstanding after having become a subscriber the number of employes may at times be less than three.

Sec. 3. The employes of a subscriber shall have no right of action against their employer for damages for personal injuries, and the representatives and beneficiaries of deceased employes shall have no right of action against such subscribing employer for damages for injuries resulting in death, but such employes and their representatives and beneficiaries shall look for compensation solely to the association, as the same is hereinafter provided for; provided that all compensation allowed under the succeeding sections herein shall be exempt from garnishment, attachment, judgment and all other suits or claims, and no such right of action and no such compensation and no part thereof or of either shall be assignable, except as otherwise herein provided, and any attempt to assign the same shall be void.

Sec. 3a. An employe of a subscriber shall be held to have waived his right of action at common law or under any statute of this State to recover damages for injuries sustained in the course of his employment if he shall not have given his employer, at the time of his contract of hire, notice in writing that he claimed said right or if the contract of hire was made before the employer became a subscriber, if the employe shall not have given the said notice within five (5) days of notice of such subscription. An employe who has given notice to his employer that he claimed his right of action at common law or under any statute may thereafter waive such claim by notice in writing, which shall take effect five (5) days after its delivery to his employer or his agent; provided further that any employe of a subscriber who has not waived his right of action at common law or under any statute to recover damages for injury sustained in the course of his employment, as above provided in this section, shall, as well as his legal beneficiaries and representatives, have his or their cause of action for such injuries as now exist by the common law and statutes of this State, which action shall be subject to all defenses under the common law and statutes of this State.

Sec. 3b. If an employe who has not given notice of his claim of common law or statutory rights of ac-

tion, as provided in Section 3a, Part I, of this Act, or who has given such notice and waived the same, sustains an injury in the course of his employment, he shall be paid compensation by the association as hereinafter provided, if his employer is a subscriber at the time of the injury.

Sec. 4. Employes whose employers are not at the time of the injury subscribers to said association, and the representatives and beneficiaries of deceased employes who at the time of the injury were working for non-subscribing employers, cannot participate in the benefits of said insurance association, but they shall be entitled to bring suit and may recover judgment against such employers, or any of them, for all damages sustained by reason of any personal injury received in the course of employment or by reason of death resulting from such injury, and the provisions of Section 1 of this Act shall be applied in all such actions.

Sec. 5. Nothing in this Act shall be taken or held to prohibit the recovery of exemplary damages by the surviving husband, wife, heirs of his or her body, or such of them as there may be, of any deceased employe whose death is occasioned by homicide from the willful act or omission or gross negligence of any person, firm or corporation from the employer of such employe at the time of the injury causing the death of the latter, and in all cases where exemplary damages are sought under this section in case the injured party has already been awarded compensation by the board herein provided, said fact and said amount so received shall be made known to the court or jury trying said cause for exemplary damages; and upon the issue of exemplary damages he shall have the same defenses as under existing law.

Sec. 6. No compensation shall be paid under this Act for an injury which does not incapacitate the employe for a period of at least one week from earning full wages, but if incapacity extends beyond one week compensation shall begin to accrue on the eighth day after the injury. Provided, however, the medical aid, hospital services and medicines, as provided for in Section 7 hereof, shall be supplied as and when needed

and according to the terms and provisions of said Section 7. And provided further that if incapacity does not follow at once after the infliction of the injury or within eight (8) days thereof but does result subsequently that compensation shall begin to accrue with the eighth day after the date incapacity commenced. In any event the employe shall be entitled to the medical aid, hospital services and medicines as provided elsewhere in this Act.

Sec. 7. During the first two weeks of the injury, dating from the date of its infliction, the association shall furnish reasonable medical aid, hospital services and medicines. If the association fails to so furnish same as and when needed during the time specified, after notice of the injury to the association or subscriber, the injured employe may provide said medical aid, hospital services and medicines at the cost and expense of the association. The employe shall not be entitled to recover any amount expended or incurred by him for said medical aid, hospital services or medicines, nor shall any person who supplied the same be entitled to recover of the association therefor, unless the association or subscriber shall have had notice of the injury and shall have refused, failed or neglected to furnish it or them within a reasonable time. Provided, however, that at the time of the injury or immediately thereafter, if necessary, the employe shall have the right to call in any available physician or surgeon to administer first-aid treatment as may be reasonably necessary at the expense of the association. During the second or any subsequent week of continuous total incapacity requiring the confinement to a hospital, the association shall, upon application of the attending physician or surgeon certifying the necessity therefor to the Industrial Accident Board and to the association, furnish such additional hospital services as may be deemed necessary, not to exceed one week, unless at the end of such additional week the attending physician shall certify to the necessity for another week of hospital services, or so much thereof as may be needed; provided, however, that such additional hospital services as are provided for in this paragraph

shall not be held to include any obligation on the part of the association to pay for medical or surgical services not ordinarily provided by hospitals as a part of their services.

Sec. 7a. If it be shown that the association is furnishing medical aid, hospital services and medicines provided for by Section 7 hereof in such manner that there is reasonable ground for believing that the life, health or recovery of the employe is being endangered or impaired thereby, the board may order a change in the physician or other requirements of said section, and if the association fails promptly to comply with such order after receiving it, the board may permit the employe or some one for him to provide the same at the expense of the association under such reasonable regulations as may be provided by said board.

Sec. 7b. All fees and charges under Sections 7 and 7a hereof shall be fair and reasonable, shall be subject to regulation of the board and shall be limited to such charges as are reasonable for similar treatment of injured persons of a like standard of living where such treatment is paid for by the injured person himself or some one acting for him. In determining what fees are reasonable, the board may also consider the increased security of payment afforded by this Act. Where such medical aid, hospital service or medicines are furnished by a public hospital or other institution, payment thereof shall be made to the proper authorities conducting the same, and the amount so paid shall be promptly reported to the board.

Sec. 7c. In all death claims where the cause of death is obscure, uncertain or disputed any interested party may require an autopsy; the cost of such autopsy shall be borne by the party demanding the same.

Sec. 7d. All fees of attorneys for representing claimants before the board under the provisions of this Act shall be subject to the approval of the board. No attorney's fees for representing claimants before the board shall be allowed or approved against any party or parties not represented by such attorney, nor exceeding an amount equal to fifteen per cent of the amount of the first

one thousand dollars or fraction thereof recovered, nor ten per cent of the excess of such recovery, if any, over one thousand dollars. The attorney's fees herein provided for may be redeemed by the association by the payment of a lump sum or may be commuted by agreement of the parties subject to the approval of the board, but not until the claim represented by said attorney has been finally determined by the board and recognized and accepted by the association. After the approval, as first above provided for, if the association be notified in writing of such claim or agreement for legal services, the same shall be a lien against any amount thereafter to be paid as compensation; provided, however, that where the employee's compensation is payable by the association in periodical installments the board shall fix at the time of approval the proportion of each installment to be paid on account of said legal services.

Sec. 8. If death should result from the injury, the association hereinafter created shall pay the legal beneficiaries of the deceased employee a weekly payment equal to sixty per cent of his average weekly wages, but not more than \$15.00 nor less than \$5.00 a week, for a period of three hundred and sixty weeks from the date of the injury.

Sec. 8a. The compensation provided for in the foregoing section shall be for the sole and exclusive benefit of the surviving husband who has not abandoned his wife at the time of the injury, the wife who has not at the time of the injury without good cause abandoned her husband, and the minor children without regard to the question of dependency, dependent parents and dependent adult children of the deceased employee, and the amount recovered thereunder shall not be liable for the debts of the deceased, nor for the debts of the beneficiary or beneficiaries, and shall be distributed among such beneficiaries as may be entitled to same according to the laws of descent and distribution of this State; and provided such compensation shall not pass to the estate of the deceased to be administered, but shall be payable directly to said beneficiaries when the same are capable of taking under the laws or to their guardians or next friend in

the case of lunacy, infancy or other disqualifying cause of any beneficiary. In any case of any beneficiary ceasing to be a beneficiary under the provisions of this Act by reason of ceasing to be a dependent or by reason of attaining his or her majority or by reason of his or her death, or by reason of his or her marriage during the period of time for which compensation is paid or payable, then the compensation of such beneficiary shall not lapse but shall inure to and pass to the benefit of any existing beneficiary or beneficiaries entitled to take benefits under the provisions of this Act. In the event that after compensation has begun to be paid or payable under the provisions of this Act there should cease to be a beneficiary capable of taking the same or any unearned or unaccrued portion thereof, then the compensation shall terminate and the claim therefor shall lapse. And the compensation provided for in this Act shall be paid weekly to the beneficiaries herein named and specified, subject to the other provisions of this Act.

Sec. 8b. In case death occurs as a result of the injury after a period of total or partial incapacity, for which compensation has been paid, the period of incapacity shall be deducted from the total period of compensation and the benefits paid thereunder from the maximum allowed for the death, respectively stated in this Act.

Sec. 9. If the deceased employee leaves no legal beneficiaries, the association shall pay all expenses incident to his last sickness as a result of the injury, and in addition a funeral benefit not to exceed \$100.00; provided, however, that where any deceased employee leaves legal beneficiaries, but who is buried at the expense of his employer or any other person, the expense of such burial, not to exceed \$100.00, shall be payable out of the compensation due the beneficiary or beneficiaries of such deceased employee, subject to the approval of the Board.

Sec. 10. While the incapacity for work resulting from injury is total, the association shall pay the injured employee a weekly compensation equal to sixty per cent of his average weekly wages, but not more than \$15 nor less than \$5, and in no case shall the period covered by such compensation be greater than four hun-

dred and one (401) weeks from the date of the injury.

Sec. 11. While the incapacity for work resulting from the injury is partial, the association shall pay the injured employe a weekly compensation equal to sixty per cent of the difference between his average weekly wages before the injury and his average weekly wage earning capacity during the existence of such partial incapacity, but in no case more than \$15 per week; and the period covered by such compensation to be in no case greater than three hundred weeks; provided that in no case shall the period of compensation for total and partial incapacity exceed four hundred and one (401) weeks from the date of the injury.

Sec. 11a. In cases of the following injuries, the incapacity shall conclusively be held to be total and permanent, to wit:

(1) The total and permanent loss of the sight in both eyes.

(2) The loss of both feet at or above the ankle.

(3) The loss of both hands at or above the wrist.

(4) A similar loss of one hand and one foot.

(5) An injury to the spine resulting in permanent and complete paralysis of both arms or both legs or of one arm and one leg.

(6) An injury to the skull resulting in incurable insanity or imbecility.

In any of the above enumerated cases it shall be considered that the total loss of the use of a member shall be equivalent to and draw the same compensation during the time of such total loss of the use thereof as for the total and permanent loss of such member.

The above enumeration is not to be taken as exclusive, but in all other cases the burden of proof shall be on the claimant to prove that his injuries have resulted in permanent, total incapacity.

Sec. 12. For the injuries enumerated in the following schedule the employe shall receive in lieu of all other compensation, except medical aid, hospital services and medicines as elsewhere herein provided, a weekly compensation equal to sixty per cent of the average weekly wages of such employe, but not less than \$5.00 per week nor exceeding \$15 per week, for the

respective periods stated herein, to wit:

For the loss of a thumb 60 per cent of the average weekly wages during sixty weeks.

For the loss of a first finger, commonly called the index finger, 60 per cent of the average weekly wages during 45 weeks.

For the loss of a second finger 60 per cent of the average weekly wages during 30 weeks.

For the loss of a third finger 60 per cent of the average weekly wages during 21 weeks.

For the loss of the fourth finger, commonly known as the little finger, 60 per cent of the average weekly wages during 15 weeks.

The loss of the second or distal phalange of the thumb shall be considered to be equal to the loss of one-half of such thumb; the loss of more than one-half of such thumb shall be considered to be equal to the loss of the whole thumb.

The loss of the third or distal phalange of any finger shall be considered to be equal to the loss of one-third of such finger.

The loss of the middle or second phalange of any finger shall be considered to be equal to the loss of two-thirds of such finger.

The loss of more than the middle and distal phalange of any finger shall be considered to be equal to the loss of the whole finger; provided, however, that in no case shall the amount received for the loss of a thumb and more than one finger on the same hand exceed the amount provided in this schedule for the loss of a hand.

For the loss of the metacarpal bone (bone of palm) for the corresponding thumb, finger or fingers above, add ten weeks to the number of weeks as above, subject to the limitation that in no case shall the amount received for the loss or injury to any one hand be more than for the loss of the hand.

For ankylosis (total stiffness of) or contracture (due to scars or injuries) which make the fingers useless, the same number of weeks shall apply to each finger or fingers or parts of fingers (not thumb) as given above.

For the loss of a hand 60 per cent of the average weekly wages during 150 weeks.

For the loss of an arm at or above the elbow 60 per cent of the

average weekly wages during 200 weeks.

For the loss of one of the toes, other than the great toe, 60 per cent of the average weekly wages during ten weeks.

For the loss of the great toe 60 per cent of the average weekly wages during 30 weeks.

The loss of more than two-thirds of any toe shall be considered to be equal to the loss of the whole toe.

The loss of less than two-thirds of any toe shall be considered to be equal to the loss of one-half of the toe.

For the loss of a foot 60 per cent of the average weekly wages during 125 weeks.

For the loss of a leg at or above the knee 60 per cent of the average weekly wages during 200 weeks.

For the total and permanent loss of the sight of one eye 60 per cent of the average weekly wages during 100 weeks.

In the foregoing enumerated cases of permanent, partial incapacity it shall be considered that the permanent loss of the use of a member shall be equivalent to and draw the same compensation as the loss of that member.

For the complete and permanent loss of hearing in both ears 60 per cent of the average weekly wages during 150 weeks.

For the loss of an eye and a leg above the knee 60 per cent of the average weekly wages during the period of 350 weeks.

For the loss of an eye and an arm above the elbow 60 per cent of the average weekly wages during the period of 350 weeks.

For the loss of an eye and a hand 60 per cent of the average wages during the period of 325 weeks.

For the loss of an eye and a foot 60 per cent of the average wages during the period of 300 weeks.

Where the employe sustains concurrent injuries resulting in concurrent incapacities, he shall receive compensation for the injury which produced the longest period of incapacity; but this section shall not affect liability for the concurrent loss or the loss of the use thereof of more than one member, for which member compensation is provided in this schedule; compensation for specific injuries under this Act shall be cur-

ulative as to time and not concurrent.

In all cases of permanent, partial incapacity it shall be considered that the permanent loss of the use of the member shall be equivalent to and draw the same compensation as the loss of that member; but the compensation in and by said schedule provided shall be in lieu of all other compensation in such cases.

In all other cases of permanent, partial incapacity, including any disfigurement which will impair the future usefulness or occupational opportunities of the injured employe, compensation shall be determined according to the percentage of incapacity, taking into account, among other things any previous incapacity, the nature of the physical injury or disfigurement, the occupation of the injured employe and age at the time of the injury; the compensation paid therefor shall be 60 per cent of the average weekly wages of the employe, but not to exceed \$15 per week, multiplied by the percentage of incapacity caused by the injury for such period as the board may determine, not exceeding 300 weeks. Whenever the weekly payments under this paragraph would be less than \$3 per week, the period may be shortened and the payments correspondingly increased by the board.

Sec. 12a. If the injured employe refuses employment reasonably suited to his incapacity and physical condition procured for him in the locality where injured or at a place agreeable to him, he shall not be entitled to compensation during the period of such refusal, unless in the opinion of the board such refusal was justifiable. This section shall not apply in cases of specific injuries for which a schedule is fixed by this Act.

Sec. 12b. In all claims for hernia resulting from injury sustained in the course of employment it must be definitely proved to the satisfaction of the Board:

First. That there was an injury resulting in hernia.

Second. That the hernia appeared suddenly and immediately following the injury.

Third. That the hernia did not exist in any degree prior to the injury for which compensation is claimed.

Fourth. That the injury was accompanied by pain.

In all such cases where liability for compensation exists, the association shall provide competent surgical treatment by radical operation. In case the injured employee refuses to submit to the operation, the Board shall immediately order a medical examination of such employee by a physician or physicians of its own selection at a time and place to be by them named, at which examination the employee and the association, or either of them, shall have the right to have his or their physician present. The physician or physicians so selected shall make to the Board a report in writing, signed and sworn to, setting forth the facts developed at such examination and giving his or their opinion as to the advisability or non-advisability of an operation. If it be shown to the Board by such examination and the written report thereof and the expert opinions thereon that the employee has any chronic disease or is otherwise in such physical condition as to render it more than ordinarily unsafe to submit to such operation, he shall, if unwilling to submit to the operation, be entitled to compensation for incapacity under the general provisions of this Act. If the examination and the written report thereof and the expert opinions thereon then on file before the Board do not show to the Board the existence of disease or other physical condition rendering the operation more than ordinarily unsafe and the Board shall unanimously so find and so reduce its findings to writing and file the same in the case and furnish the employee and the association with a copy of its findings, then if the employee with the knowledge of the result of such examination, such report, such opinions and such findings, thereafter refuses to submit within a reasonable time, which time shall be fixed in the findings of the Board, to such operation, he shall be entitled to compensation for incapacity under the general provisions of this Act for a period not exceeding one year.

If the employee submits to the operation and the same is successful, which shall be determined by the Board, he shall in addition to the surgical benefits herein provided for be entitled to compensation for 26 weeks from the date of the operation. If such operation is not successful and does not re-

sult in death, he shall be paid compensation under the general provisions of this Act the same as if such operation had not been had; other than in determining the quantum of compensation to be paid to the employee, the Board may take into consideration any minor benefits that accrued to the employee by reason thereof or any aggravation or increased injury which accrued to him by reason thereof.

If the hernia results in death within one year after it is sustained, or the operation results in death, such death shall be held a result of the injury causing such hernia and compensated accordingly under the provisions of this Act. This paragraph shall not apply where the employee has willfully refused to submit to an operation which has been found by the examination herein provided for not to be more than ordinarily unsafe.

Sec. 12c. If an employee who has suffered a previous injury shall suffer a subsequent injury which results in a condition of incapacity to which both injuries or their effects have contributed, the association shall be liable because of such injury only for the compensation to which the subsequent injury would have entitled the injured employee had there been no previous injury.

Sec. 12d. Upon its own motion or upon the application of any person interested showing a change of conditions, mistake or fraud, the board at any time within the compensation period may review any award or order, ending, diminishing or increasing compensation previously awarded, within the maximum and minimum provided in this Act, or change or revoke its previous order, sending immediately to the parties a copy of its subsequent order or award. Review under this section shall be only upon notice to the parties interested.

Sec. 12e. In all cases where liability for compensation exists for an injury sustained by an employee in the course of his employment and a surgical operation for such injury will effect a cure of the employee or will materially and beneficially improve his condition the association or the employee may demand that a surgical operation be had upon the employee as herein provided, and the

association shall provide and pay for all necessary surgical treatment, medicines and hospital services incident to the performance of said operation, provided the same is had. In case either of said parties demands in writing to the board such operation the board shall immediately order a medical examination of the employe in the same manner as is provided for in the section of this Act relating to hernia. If it be shown by the examination, report of facts and opinions of experts, all reduced to writing and filed with the board, that such operation is advisable and will relieve the condition of the injured employe or will materially benefit him, the board shall so state in writing and upon the unanimous order of said board in writing, a copy of which shall be delivered to the employe and the association, shall direct the employe at a time and place therein stated to submit himself to an operation for said injury. If the board should find that said operation is not advisable, then the employe shall continue to be compensated for his incapacity under the general provisions of this Act. If the board shall unanimously find and so state in writing that said operation is advisable, it shall make its order to that effect, stating the time and place when and where such operation is to be performed, naming the physicians therein who shall perform said operation, and if the employe refuses to submit to such operation, the board may order or direct the association to suspend the whole or any part of his compensation during the time of said period of refusal. The results of such operation and the benefits and liabilities arising therefrom shall attach, be treated, handled and determined by the board in the same way as is provided in the case of hernia in this Act.

Sec. 12f. In all cases where a subscriber or the association has in his or its employ a physician or physicians regularly paid in any manner whatsoever by such subscriber or association to administer to or treat injured employes, the name or names of such physicians at the date of employment of the same shall be filed with the board, together with a copy of the contract of such employment. If the contract of such

physician or physicians is not in writing, then the same shall be reduced to writing and a copy thereof filed with the board. Such contract shall state fully the extent and scope of the employment and the compensation to be paid such physician or physicians. If the association or subscriber wilfully fails or refuses to comply with the provisions of this Act, then an injured employe or any person acting for him shall have the right to provide hospital services, medical aid and medicine for said injured employe, and the expense and the same shall be charged to the association, and the subscriber or association shall notify the employe at or before the time of injury what physician or physicians are contracted with to treat his or its employes.

Sec. 12g. It shall be unlawful for any subscriber or any employer who seeks to comply with the provisions of this Act to either directly or indirectly collect of or from his employes by any means or pretense whatever any premium under this Act or part thereof paid or to be paid upon any policy or such insurance under this Act which covers such employes, or any intended policy of such insurance designed to cover such employes, and, if any such subscriber or any employer of labor in this State violates this provision of this Act, then any employe or the legal beneficiary of any employe of such employer or subscriber shall be entitled to all the benefits of this Act and in addition thereto shall have a separate right of action to recover damages against such employer without regard to the compensation paid or to be paid to such employe or beneficiary under this Act, and the association shall in no wise be responsible because of such separate action by such employe or beneficiary against such employer on such separate cause of action.

Sec. 12h. Every contract or agreement of an employer, the purpose of which is to indemnify him from loss or damage on account of the injury of an employe by accidental means or on account of the negligence of such employer or his officer, agent or servant, shall be absolutely void unless it also covers liability for the payment of the compensation provided for by this Act. Provided, that

this section of this Act shall not apply to employers of labor who are not eligible under the terms of this Act to become subscribers thereto, nor to employers whose employes have elected to reject the provisions of this Act.

Sec. 12i. If it be established that the injured employe was a minor when injured and that under normal conditions his wages would be expected to increase, that fact may be considered in arriving at his average weekly wages and compensation may be fixed accordingly. This section shall not be considered as authorizing the employment of a minor in any hazardous employment which is prohibited by any statute of this State.

Sec. 13. If an injured employe is mentally incompetent or is a minor or is under any other disqualifying cause at the time when any rights or privileges accrue to him or exist under this Act, his guardian or next friend may in his behalf claim and exercise such rights and privileges, except as otherwise herein provided.

In case of partial incapacity or temporary total incapacity, payment of compensation may be made direct to the minor and his receipts taken therefor, if the authority to so pay and receipt for said compensation is first obtained from the board.

Sec. 14. No agreement by any employe to waive his rights to compensation under this Act shall be valid.

Sec. 15. In cases where death or total permanent incapacity results from an injury, the liability of the association may be redeemed by payment of a lump sum by agreement of the parties therefor, subject to the approval of the Industrial Accident Board hereinafter created. This section shall be construed as excluding any other character of lump sum settlement, except as herein specified.

Sec. 16. In all cases of injury resulting in death, where such injury was sustained in the course of employment, cause of action shall survive.

Sec. 17. Non-resident, alien beneficiaries and resident alien beneficiaries shall be entitled to compensation under this Act. Non-resident alien beneficiaries may be officially represented by the consular officers of the nation of which such alien or aliens may be citi-

zens or subjects, and in such cases the consular officers shall have the right to receive for distribution for such non-resident, alien beneficiaries all compensation awarded hereunder, and the receipt of such consular officers shall be a full discharge of all sums paid to and received by them. The association may at any time, subject to the approval of the Board, commute all future instalments of compensation payable to alien beneficiaries, not residents of the United States, by paying to such alien beneficiaries the sum agreed upon and filing receipts therefor with the Board.

Sec. 18. It is the purpose of this Act that the compensation herein provided for shall be paid from week to week and as it accrues and directly to the person entitled thereto, unless the liability is redeemed as in such cases provided elsewhere herein, and, if the association willfully fails or refuses to pay compensation as and when the same matures and accrues, the Board shall notify said association that such is the course it is pursuing and if after such notice the association continues to willfully refuse and fail to meet these payments of compensation as provided for in this Act, the Board shall have the power to hold that such association is not complying with the provisions of this Act; provided, said power of the Board shall not be held to deny the association the right to bring suit or suits to set aside any ruling, order or decision of the Board.

Sec. 19. If an employe who has been hired in this State sustained injury in the course of employment he shall be entitled to compensation according to the law of this State, even though such injury was received outside of the State.

Part II.

Section 1. There shall be an Industrial Accident Board consisting of three members, and the same is hereby created to be appointed by the Governor, one of whom shall be Chairman, and said board shall have the powers, duties and functions hereinafter conferred. Beginning with September 1, 1917, one member thereof shall be appointed for a term of two years, one for four years and one for six years; thereafter the term of office for members of the board shall be six years. Appoint-

ments to fill vacancies on the board shall be for the unexpired terms.

Sec. 2. One member of the Industrial Accident Board shall be at the time of his appointment an employer of labor in some industry or business covered by this Act; one shall be at the time of his appointment employed in some business or industry as a wage-earner, and the third member shall be at the time of his appointment a practicing attorney of recognized ability, said member to act in the capacity of legal adviser to the board in addition to his other duties as a member thereof. The Chairman designated by the Governor shall serve as Chairman for two years as such Chairman, and thereafter such board shall select its own chairman from its membership every two years.

Sec. 3. The salaries and expenses of the Industrial Accident Board shall be paid by the State. The salaries of the said members of the board shall be four thousand (\$4,000) dollars a year each, payable in monthly installments. The board may appoint a secretary at a salary of twenty-five hundred (\$2,500) a year, and may remove him at any time, furnishing him, upon demand, with a written statement of the cause or causes of his removal; and may appoint such other clerical and other assistants as may be necessary to properly administer this Act. It shall also be allowed an annual sum, the amount to be determined by the Legislature, for clerical and other services, office equipment, traveling and all other necessary expenses. The board shall be provided offices in the Capitol or some convenient building in the city of Austin where its records shall be kept.

The members of said board, or any employe thereof, shall have the right to travel upon free railroad transportation in the prosecution of the duties of their respective offices in the State of Texas without violating any provision of the anti-pass laws of this State, and any railroad company issuing such transportation shall not be deemed nor held to have violated any law of this State by reason thereof.

Sec. 4. The board may make rules not inconsistent with this Act for carrying out and enforcing its provisions, and may require any employe claiming to have sustained injury to

submit himself for examination before such board or someone acting under its authority at some reasonable time and place within the State, and as often as may be reasonably ordered by the board to a physician or physicians authorized to practice under the laws of this State. If the employe or the association requests, he or it shall be entitled to have a physician or physicians of his or its own selection present to participate in such examination. Refusal of the employe to submit to such examination shall deprive him of his right to compensation during the continuance of such refusal. When a right to compensation is thus suspended no compensation shall be payable in respect to the period of suspension. If any employe shall persist in insanitary or injurious practices which tend to either imperil or retard his recovery, or shall refuse to submit to such medical or surgical treatment as is reasonably essential to promote his recovery, the board may in its discretion order or direct the association to reduce or suspend the compensation of any such injured employe. No compensation shall be reduced or suspended under the terms of this section without reasonable notice to the employe and an opportunity to be heard.

The association shall have the privilege of having any injured employe examined by a physician or physicians of its own selection, at reasonable times, at a place or places suitable to the condition of the injured employe and convenient and accessible to him; provided, however, that the association shall pay for such examination and the reasonable expense incident to the injured employe in submitting thereto; and provided further that the injured employe shall have the privilege to have a physician or physicians of his own selection, at the expense of such injured employe, present to participate in such examination.

Process and procedure shall be as summary as may be under this Act. The board or any member thereof shall have power to subpoena witnesses, administer oaths, inquire into matters of fact, and to examine such parts of the books and records of the parties to a proceeding as relate to questions in dispute. All rulings and decisions of the board relating to disputed claims shall be upon questions

of fact and in accord with the provisions of this Act.

Sec. 4a. Unless the association or subscriber have notice of the injury, no proceeding for compensation for injury under this Act shall be maintained unless a notice of the injury shall have been given to the association or subscriber within thirty (30) days after the happening thereof, and unless a claim for compensation with respect to such injury shall have been made within six (6) months after the occurrence of same; or, in case of death of the employee or in the event of his physical or mental incapacity within six (6) months after the death or the removal of such physical or mental incapacity.

Sec. 5. All questions arising under this Act, if not settled by agreement of the parties interested therein and within the terms and provisions of this Act, shall, except as otherwise provided, be determined by the board. Any interested party who is not willing and does not consent to abide by the final ruling and decision of said board shall within twenty days after the rendition of said final ruling and decision by said board give notice to the adverse party and to the board that he will not abide by said final ruling and decision. And he shall within twenty days after giving such notice bring suit in some court of competent jurisdiction in the county where the injury occurred to set aside said final ruling and decision and said board shall proceed no further toward the adjustment of such claim, other than as hereinafter provided; provided, however, that whenever such suit is brought, the rights and liability of the parties thereto shall be determined by the provisions of this Act, and the suit of the injured employee or person suing on account of the death of such employee shall be against the association if the employer of such injured or deceased employee at the time of such injury or death was a subscriber as defined in this Act. If the final order of the board is against the association, then the association and not the employer shall bring suit to set aside said final ruling and decision of the board, if it so desires, and the court shall in either event determine the issues in such cause instead of the board upon trial de novo and the

burden of proof shall be upon the party claiming compensation. In case of recovery the same shall not exceed the maximum compensation allowed under the provisions of this Act. If any party to any such final ruling and decision of the board, after having given the notice as above provided, fails within said twenty days to institute and prosecute a suit to set the same aside, then said final ruling and decision shall be binding upon all parties thereto, and, if the same is against the association, it shall at once comply with such final ruling and decision, and failing to do so the board shall certify that fact to the Commissioner of Insurance and Banking, and such certificate shall be sufficient cause to justify said Commissioner of Insurance and Banking to revoke or forfeit the license or permit of such association to do business in Texas.

Sec. 6. If any subscriber to this Act with the purpose and intention of avoiding any liability imposed by the terms of the Act sublets the whole or any part of the work to be performed or done by said subscriber to any sub-contractor, then in the event any employee of such sub-contractor sustains an injury in the course of his employment he shall be deemed to be and taken for all purposes of this Act to be the employee of the subscriber, and in addition thereto such employee shall have an independent right of action against such sub-contractor, which shall in no way be affected by any compensation to be received by him under the terms and provisions of this Act.

Sec. 6a. Where the injury for which compensation is payable under this Act was caused under circumstances creating a legal liability in some person other than the subscriber to pay damages in respect thereof, the employee may at his option proceed either at law against that person to recover damages or against the association for compensation under this Act, but not against both, and if he elects to proceed at law against the person other than the subscriber, then he shall not be entitled to compensation under the provisions of this Act; if compensation be claimed under this Act by the injured employee or his legal beneficiaries, then the association

shall be subrogated to the rights of the injured employe in so far as may be necessary and may enforce in the name of the injured employe or of his legal beneficiaries or in its own name and for the joint use and benefit of said employe or beneficiaries and the association the liability of said other person, and in case the association recovers a sum greater than that paid or assumed by the association to the employe or his legal beneficiaries, together with a reasonable cost of enforcing such liability, which shall be determined by the court trying the case, then out of the sum so recovered the association shall reimburse itself and pay said cost and the excess so recovered shall be paid to the injured employe or his beneficiaries. The association shall not have the right to adjust or compromise such liability against such third person without notice to the injured employe or his beneficiaries and the approval of the board, upon a hearing thereof.

Sec. 7. Every subscriber shall hereafter keep a record of all injuries, fatal or otherwise, sustained by his employes in the course of their employment. Within eight days after the occurrence of an accident resulting in an injury to an employe, causing his absence from work for more than one day, a report thereof shall be made in writing to the board on blanks to be procured from the board for that purpose. Upon the termination of the incapacity of the injured employe, or if such incapacity extends beyond a period of sixty days, the subscriber shall make a supplemental report upon blanks to be procured for that purpose. The said report shall contain the name and nature of the business of the employer, the location of the establishment, the name, age, sex and occupation of the injured employe and the character of work in which he was engaged at the time of the injury, and shall state the date and hour of receiving such injury and the nature and cause of the injury, and such other information as the board may require. Any employer willfully failing or refusing to make any such report within the time herein provided, or willfully failing or refusing to give said board any information demanded by said board relating to

any injury to an employe, which information is in the possession of or can be ascertained by the employer by the use of reasonable diligence, shall be liable for and shall pay to the State of Texas a penalty of not more than one thousand dollars for each and every offense, the same to be recovered in a suit to be instituted and prosecuted in Travis county by the Attorney General or by the district or county attorney under his direction in a district court thereof.

Sec. 8. A majority of the Board shall constitute a quorum to transact business, and the act or decision of any two members of the Board shall be held the act or decision of the Board, except as otherwise herein specifically provided. No vacancy shall impair the right of the remaining member or members of the Board to exercise all the powers of the Board. The Board shall provide itself with a seal for the authentication of its orders, awards or proceedings on which shall be inscribed the words "Industrial Accident Board, State of Texas, Official Seal." And any order, award or proceeding of said Board when duly attested and sealed by the Board or its secretary shall be admissible as evidence of the act of said Board in any court in this State.

Sec. 9. Upon the written request and payment of the fees therefor, which fees shall be the same as those charged for similar services in the Secretary of State's office, the Board shall furnish to any person entitled thereto a certified copy of any order, award, decision or paper on file in the office of said Board, and the fees so received for such copies shall be covered into the Treasury of the State of Texas into the fund for assistant clerical hire in the department of the Industrial Accident Board, and so much thereof as may be necessary may be used by said department upon proper voucher therefor to pay the necessary clerks to make such copies, and any excess that may exist at the end of any fiscal year in such fund shall lapse into the general revenue fund of this State, and no fee or salary shall be paid to any clerk or other person in said department for making such copies in excess of the fees charged for such copies.

Sec. 10. Said Board or any member thereof may hold hearings or take testimony or make investigations at any point within the State of

Texas, reporting the result thereof, if the same is made by one member, to the Board, or it can employ or use the assistance of an inspector or adjuster for the purpose of adjusting and settling claims for compensation or developing the facts relating to any claim for compensation.

Sec. 11. When the association suspends or stops payment of compensation, it shall immediately notify the Board of that fact, giving to said Board the name, number and style of the claim, the amount paid thereon, the date of the suspension or stopping of payment thereon and the reason for such suspension or stopping of payment of compensation.

Sec. 12. The Board upon application of either party may, in its discretion, having regard to the welfare of the employe and the convenience of the association, authorize compensation to be paid monthly or quarterly.

In any case where the liability of the association or the extent of the injury of the employe is uncertain, indefinite or incapable of being satisfactorily established the Board may approve any compromise, adjustment, settlement or commutation thereof made between the parties.

PART III.

Section 1. The "Texas Employers' Insurance Association" is hereby created, a body corporate with the powers provided in this Act and with all the general corporate powers incident thereto.

Sec. 2. The Governor shall appoint a board of directors of the association, consisting of twelve members, who shall serve for a term of one year or until their successors are elected by ballot by the subscribers at such time and for such term as the by-laws shall provide; provided that at any annual meeting of subscribers the number of directors may be increased or decreased by resolution duly recorded in the minutes of such meeting.

Sec. 3. Until the first meeting of the subscribers, the board of directors shall have and exercise all the powers of the subscribers and may adopt by-laws, not inconsistent with the provisions of this Act, which shall be in effect until amended or repealed by the subscribers.

Sec. 4. The board of directors shall immediately choose by ballot a presi-

dent, who shall be a member of the board, a secretary, a treasurer, and such other officials as the by-laws may provide.

Sec. 5. Seven or more of the directors shall constitute a quorum for the transaction of business. Vacancies in any office may be filled in such manner as the by-laws shall provide.

Sec. 5a. The board of directors may appoint an executive committee which may have and exercise all of the powers of the board of directors except when the board is in session.

Sec. 6. Any employer of labor in this State may become a subscriber except as provided in Section 2, Part I. of this Act.

Sec. 7. The board of directors shall, within thirty days of the subscription of twenty-five employers, call the first meeting of the subscribers by a notice in writing mailed to each subscriber at his residence or place of business not less than ten days before the date fixed for the meeting.

Sec. 8. In any meeting of the subscribers each subscriber shall have one vote, and if a subscriber has 500 employes to whom the association is bound to pay compensation he shall be entitled to two votes and he shall be entitled to one additional vote for each additional 500 employes to whom the association is bound to pay compensation, but no subscriber shall cast, by his own right or by right of proxy, more than 20 votes.

Sec. 9. No policies shall be issued by the association until not less than 50 members have subscribed, who have not less than 2,000 employes to whom the association may be bound to pay compensation.

Sec. 10. No policies shall be issued by the association until a list of the subscribers with the number of employes of each, together with such information as the Commissioner of Insurance and Banking may require, shall have been filed with the Department of Insurance and Banking, nor until the president and secretary of the association shall have certified under oath that every subscription on the list so filed is genuine and made with an agreement with each subscriber that he will take the policy so subscribed for by him within thirty days of the granting of a license to the associa-

tion by the Commissioner of Insurance and Banking to issue policies.

Sec. 11. If the number of subscribers falls below fifty, or the number of employees to whom the association may be bound to pay compensation falls below 2,000, no further policies shall be issued until other employers have subscribed who, together with existing subscribers, amount to not less than fifty, who have not less than 2,000 employees to whom the association may be bound to pay compensation, and subscriptions to be subject to the provisions of the preceding section.

Sec. 12. Upon the filing of the certificates provided for in the two preceding sections, the Commissioner of Insurance and Banking shall make such investigations as he may deem proper and, if his findings warrant it, grant a license to the association to issue policies.

Sec. 13. The board of directors may distribute the subscribers into groups for the purpose of segregating the experience of each such group as to premiums and losses, and for the purpose of determining dividends payable to and assessments payable by the subscribers within each group, but for the purpose of determining the solvency of the association the funds of the association shall be deemed one and indivisible. The board of directors shall have power to rearrange any of the groups by withdrawing any subscriber and transferring him wholly or in part to any group and to set up new groups at its discretion.

Sec. 14. The association may, in its by-laws and policies, fix the limit of liability of the subscribers for the payment of assessments hereinafter provided for, but such limit of liability of the subscriber shall not, except by special agreement in writing between the association and subscriber, be fixed at an amount greater than an amount equal to and in addition to an annual premium.

Sec. 15. If the association, at the end of any calendar year, is not possessed of admitted assets in excess of unearned premiums sufficient for the payment of its incurred losses and expenses, it shall make an assessment for the amount needed to pay such losses and expenses, first upon the subscribers within each group whose earned premiums compared with its incurred losses and

expenses shows a deficiency for the group, and second only upon the subscribers within each group whose earned premiums compared with its incurred losses and expenses shows a surplus, and in no event shall it make an assessment for any aggregate amount more than is needed to pay losses and expenses. Every subscriber shall, in accordance with the law and his contract, pay his proportionate part of any assessment which may be levied by the association on account of losses and expenses incurred during any calendar year while he is a subscriber.

Sec. 16. The board of directors may by vote from time to time fix the amount to be paid as dividends on the policies in force during each calendar year after retaining sums sufficient to pay all compensation which may be payable on account of injuries sustained and expenses incurred during the calendar year. Dividends and assessments shall be fixed by and for groups, but the entire assets of the association, including the liability of the subscriber to assessment within the limits fixed by the by-laws or by special agreement in writing as authorized, shall be subject to the payment of any approved claim for compensation against the association.

Sec. 16a. Whenever the association shall have accumulated at the end of any calendar year an admitted surplus in excess of incurred losses, expenses and unearned premiums amounting to the sum of two hundred thousand dollars, the liability of its members to assessment shall be suspended during the ensuing calendar year, or for such further period as the association shall maintain unimpaired such surplus of two hundred thousand dollars or more, and the certificate of the Commissioner of Insurance and Banking, after an examination and report, shall be conclusive evidence as to the fact in any proceeding in which the fact may be an issue.

Sec. 16b. Whenever by reason of having qualified under Section 16a, Part III, to issue policies which are not subject to assessment, the association may issue policies which will not entitle the holder to participate in any distribution of surplus.

Sec. 16c. The board of directors

shall determine hazards by classes, and fix the rates of premium which shall be applicable to the pay roll in each of such classes at the lowest possible rate consistent with the maintenance of solvency and the creation of adequate reserves and a reasonable surplus, and for such purpose may adopt a system of schedule and experience rating in such a manner as to take account of the peculiar hazard of each individual risk.

Sec. 17. Any proposed rate of premium, assessment or dividend or any distribution of subscribers shall not take effect until approved by the Commissioner of Insurance and Banking after such investigation as he may deem necessary.

Sec. 18. The association shall make and enforce reasonable rules for the prevention of injuries on the premises of subscribers and for this purpose the inspector of the association or of the board shall have free access to all such premises during regular working hours. Any subscriber aggrieved by such rule or regulation may petition the board for a review and it may affirm, amend or annul the rule or regulation.

Sec. 18a. Whenever any employer of labor in this State becomes a subscriber to this Act, he shall immediately notify the board of such fact, stating in such notice his name, place of business, character of the business, approximate number of employees, estimated amount of his pay roll and the name of the insurance company carrying his insurance, the date of issuing the policy and the date when the same will expire, and whenever any policy is renewed that fact shall be made known to the board and the notice thereof shall contain the above facts. The association shall also report the same to the board, giving the name of the employer, place of business, character of the business, approximate number of employees, estimated amount of pay roll, date of issuance and date of expiration of said policy. Any employer or association willfully failing or refusing to make any such report shall be liable for and shall pay to the State of Texas a penalty of not more than one thousand dollars (\$1,000) for each and every offense, the same to be recovered in a suit to be instituted and prosecuted in Travis County by the Attorney General or by the district

or county attorney under his direction in the district court thereof.

Sec. 19. Every subscriber shall, as soon as he secures a policy, give notice in writing or print, or in such manner or way as may be directed or approved by the Board, to all persons under contract of hire with him that he has provided for payment of compensation for injuries with the association.

Sec. 20. Every subscriber shall, after receiving a policy, give notice in writing or print, or in such manner or way as may be directed or approved by the Board to all persons with whom he is about to enter into a contract of hire that he has provided for payment of compensation for injuries by the association. If any employer ceases to be a subscriber, he shall on or before the date on which his policy expires, give notice to that effect in writing or print or in such other manner or way as the Board may direct or approve to all persons under contract of hire with him. In case of the renewal of his policy no notice shall be required under this Act. He shall file a copy of said notice with the Board.

Sec. 21. If a subscriber who has complied with all the rules, regulations and demands of the association is required by any judgment of a court at law to pay any employee any damages actual or exemplary, on account of any personal injury sustained by such employee in the course of his employment during the period of subscription, the association shall pay to the subscriber the full amount of the judgment and the cost assessed therewith, if the subscriber shall have given the association notice of the bringing of the action upon which the judgment was recovered and an opportunity to appear and defend the same in his or its name.

Sec. 22. The corporate powers of the association shall not expire because of failure to issue policies or to make insurance.

Sec. 23. If any employer of labor in this State, eligible to become a subscriber under this Act, shall comply with the provisions of this Act and with the reasonable rules and regulations of the association, then upon his payment or tender thereof of the lawful premium therefor the association shall be required to issue to such employer its policy or policies of insurance so that he may become a sub-

scriber. The provisions of this section shall apply to and include any insurance company described in Section 2, Part IV, of this Act. If the association or any such insurance company shall refuse to issue its policy of insurance to any such employer of labor who has complied with every reasonable rule and regulation to install in his place of business or where his work is being done such reasonable safety appliances as are ordinarily used in a place of business or work of similar character, the Commissioner of Insurance and Banking shall have power to suspend or forfeit the right and license of such company or association to issue policies of insurance to employers of labor in this State; provided, however, that the power of the Commissioner of Insurance and Banking when exercised or refused in this respect shall be subject to review by the courts on application thereto by the association or any insurance company, or by any employer of labor who has been refused a policy under such conditions.

Sec. 24. The association shall set up and maintain reserves adequate to meet anticipated losses and carry all claims to maturity and policies to termination, which reserves shall be computed in accordance with such rules as shall be approved by the Commissioner of Insurance and Banking.

Part IV.

Section 1. The following words and phrases as used in this Act shall, unless a different meaning is plainly required by the context, have the following meanings, respectively:

"Employer" shall mean any person, firm, partnership, association of persons or corporations or their legal representatives that makes contracts of hire.

"Employee" shall mean every person in the service of another under any contract of hire, expressed or implied, oral or written, except masters of or seamen on vessels engaged in interstate or foreign commerce, and except one whose employment is not in the usual course of the trade, business, profession or occupation of his employer.

The words "legal beneficiaries" as used in this Act shall mean the relatives named in Section 8a, Part I, of this Act.

"Association" shall mean the "Texas

Employers' Insurance Association" or any other insurance company authorized under this Act to insure the payment of compensation to injured employees or to the beneficiaries of deceased employees.

"Subscriber" shall mean any employer who has become a member of the association by paying the required premium; provided that the association holds a license issued by the Commissioner of Insurance and Banking, as provided for in Section 12, Part III, of this Act.

"Average weekly wages" shall mean,

1. If the injured employee shall have worked in the employment in which he is working at the time of the injury, whether for the same employer or not, substantially the whole of the year immediately preceding the injury, his average annual wages shall consist of three hundred times the average daily wage or salary which he shall have earned in such employment during the days when so employed.

2. If the injured employee shall not have worked in such employment during substantially the whole of the year, his average annual wages shall consist of three hundred times the average daily wages or salary which an employee of the same class working substantially the whole of such immediately preceding year in the same or in a similar employment in the same or a neighboring place, shall have earned in such employment during the days when so employed.

3. When by reason of the shortness of the time of the employment of the employee, or other employee engaged in the same class of work in the manner and for the length of time specified in the above subsections 1 and 2, or other good and sufficient reasons, it is impracticable to compute the average weekly wages as above defined, it shall be computed by the Board in any manner which may seem just and fair to both parties.

4. Said wages shall include the market value of board, lodging, laundry, fuel, and other advantages which can be estimated in money, which the employee receives from the employer as part of his remuneration. Any sums, however, which the employer has paid to the employee to cover any special expenses entailed

by him by the act of his employment shall not be included.

5. The average weekly wages of an employe shall be one-fifty-second (1-52) part of the annual wages.

The terms "injury" or "personal injury" as used in this Act shall be construed to mean damage or harm to the physical structure of the body and such diseases or infection as naturally result therefrom.

The term "injury sustained in the course of employment," as used in this Act, shall not include:

1. An injury caused by the act of God, unless the employe is at the time engaged in the performance of duties that subject him to a greater hazard from the act of God responsible for the injury than ordinarily applies to the general public.

2. An injury caused by an act of a third person intended to injure the employe because of reasons personal to him and not directed against him as an employe, or because of his employment.

3. An injury received while in a state of intoxication.

4. An injury caused by the employe's willful intention and attempt to injure himself, or to unlawfully injure some other person, but shall include all other injuries of every kind and character having to do with and originating in the work, business, trade or profession of the employer received by an employe while engaged in or about the furtherance of the personal affairs or business of his employer whether upon the employer's premises or elsewhere.

Sec. 1a. The president, vice president or vice presidents, secretary or other officers thereof provided in its charter or by-laws and the directors of any corporation which is a subscriber to this Act shall not be deemed or held to be an employe within the meaning of that term as defined in the preceding section hereof.

Sec. 2. Any insurance, which term shall include mutual and reciprocal companies, lawfully transacting a liability or accident business in this State shall have the same right to insure the liability and pay the compensation provided for in Part I of this Act, and when such company issues a policy conditioned to pay such compensation, the holder of such said policy shall be re-

garded as a subscriber so far as applicable under this Act, and when such company insures such payment of compensation it shall be subject to the provisions of Parts I, II and IV and of Sections 10, 17, 18a, 21 and 23 of Part III of this Act, and shall file with the Commissioner of Insurance and Banking its classification of hazards with the rates of premium respectively applicable to each, none of which shall take effect until the Commissioner of Insurance and Banking has approved same as adequate to the risks to which they respectively apply and not greater than charged by the association, and such company may have and exercise all of the rights and powers conferred by this Act on the association created hereby, but such rights and powers shall not be exercised by a mutual or reciprocal organization unless such organization has at least fifty subscribers who have not less than 2,000 employes.

Sec. 3. Any subscriber who has paid a premium as provided in Section 1, Part IV, of this Act may upon application to the board and to the association and after a showing satisfactory to the board that he has notified all of his employes in such manner as may be required by the board cease to be a subscriber and be entitled to a refund of the unearned portion of his premium, subject, however, to any rule approved by the Commissioner of Insurance and Banking as to minimum premiums or short rate cancellation.

Sec. 3a. Any subscriber who shall willfully misrepresent the amount of his pay roll to the association writing his insurance upon which any premium under this Act is to be based shall be liable to the association insuring the compensation of his employes in an amount not to exceed ten times the amount of the difference between the premium which he paid and the amount which said subscriber should have paid had his pay roll been correctly computed; and the liability to said association for such misrepresentation, if it was deceived thereby, may be enforced in a civil action in any court of competent jurisdiction in this State.

Sec. 3b. No inchoate, vested, matured, existing or other rights, remedies, powers, duties or authority, either of any employe or legal beneficiary, or of the board, or of the association, or

of any other person shall be in any way affected by any of the amendments herein made to the original law hereby amended, but all such rights, remedies, powers, duties and authority shall remain and be in force as under the original law just as if the amendments hereby adopted had never been made, and to that end it is hereby declared that said original law is not repealed, but the same is, and shall remain in full force and effect as to all such rights, remedies, powers, duties and authority; and further this Act in so far as it adopts the law of which it is an amendment is a continuation thereof, and only in other respects a new enactment.

Sec. 3c. Any reference to any employe herein who has been injured shall, when the employe is dead, also include the legal beneficiaries, as that term is herein used, of such employe to whom compensation may be payable. Whenever the word "board" is used in this Act it shall be construed to mean Industrial Accident Board created by this Act. Whenever in this Act the singular is used, the plural shall be included; whenever the masculine gender is used, the feminine and neuter shall be included.

Sec. 4. Should any part of this Act for any reason be held to be invalid, unconstitutional or inoperative, no other part or parts thereof shall be held affected thereby, and if any exception to or any limitation upon any general provision herein contained shall be held to be unconstitutional or invalid or ineffective the general provisions shall nevertheless stand effective and valid as if it had been enacted without limitation or exceptions.

Sec. 5. In cases of emergency or impending necessity the association may make advance payments of compensation to any employe during the period of his incapacity or to his beneficiaries within the terms of this Act, and when the same is either directed or approved by the Board it shall be credited as against any unaccrued compensation due said employe or beneficiaries.

Sec. 6. The reports of accidents required by this Act to be made by subscribers shall not be deemed and considered as admissions and evidence against the association or the subscriber in any proceedings before the Board or elsewhere in a contested case where the facts set out there

in or in any one of them is sought to be contradicted by the association or subscriber.

Sec. 7. The law as it now stands being wholly inadequate to protect the rights of industrial employes who may be injured in industrial accidents and the beneficiaries of such employes who may be killed in such accidents creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and the same is hereby suspended, and this Act shall take effect from and after its passage, and it is so enacted.

A Memorial Relating to the Foregoing Bill.

To the Senate of Texas:

The bill pending before your body, known as Senate Bill No. 237, is an amendment to the compensation act known as the Employers' Liability Act of this State. The principle of compensation being paid to an employe for injury sustained in the course of his employment, or to his beneficiaries in case such injury results in death, is so well established and so incontestably correct that it is safe to assume that there is no opposition to its application in this State that does rest, or can rest, upon a knowledge of the principle. The principle involved in such cases is not a new one. It had its origin in that sense of justice that pervades nature and finds expression in human laws. It was recognized and applied by the common law to such an extent that it became as now a rule of action governing all English speaking people. So just was the principle that it was extended by statute in what was known as Lord Campbell's Act, which preserved the right of action so arising to the dependents of an employe dying as the result of an injury sustained in the course of his employment. This fundamental principle, under judicial application in varying jurisdictions, has been more or less restricted and in some cases enlarged. However, through shifting mutations the principle has remained and is the same. The doctrine or principle was brought to America by the founders of this republic and given vital force anterior

to the organization of our Federal government. Under our form of government, both in the nation and the States, the common law idea has prevailed and when interfered with by local organic law, the principle has been preserved in that organic law and always saved thereby or other statute when necessary. This being so, we feel confident that the Legislature cannot now, if so disposed, revoke or abrogate this doctrine which gives to the injured employe, or in case of his death, to his dependents, a right of action against the person in whose employ he was when so injured.

The theory of the common law that the employe, or his beneficiaries in case of death, are entitled to damages (compensation) was entirely just. However, the additional idea that the damages or compensation also acted as a penalty against the employer was in a measure unsound—unsound in all respects save as an incentive and an inducement to the employer to provide a safe place to work for his employe. The law laid down the proposition that the employer should provide a reasonably safe place for the employe. This is the first application that we now recall of the doctrine of "Safety First," which is now so prevalent under the existing application of the principle of compensation applied. In the course of time, other than exemplary damages, ceased to be treated as a penalty against the employer and the reason was by him gradually established that the loss occasioned by the injury of an employe should be laid on the industry which caused the injury and ultimately passed on to the consumer. This being so, the man in the factory, for economic purposes, was considered as a machine and when he was destroyed or broken by the industry, he was to be paid for the same as any other broken machinery. This idea prevails now under the theory of compensation just as it did under the theory of damages, and the change constituting the characteristic difference between the two is that now a radical remedy is afforded for the collection of this compensation. The old method involved the law's delays and in the course of time absolutely demonstrated its failure. The entire civil-

ized world recognized the faults of the procedure and in most places have changed it to the compensation theory. Under the old theory it cost more to collect the compensation or damages than the employe ever received to his share, to say nothing of the thousands of cases where justice miscarried and the entire principle underlying the right of action was either lost sight of or outraged. The damage suit industry became a profession and the art of defending against damage suits became a science and a specialty on the part of attorneys and well-kept lawyers, and between these two the procedure relied on to recover damages or compensation became not only a grotesque failure, but a denial of justice.

Realizing this condition of affairs the great nations of the earth, England, France, Germany, Switzerland and the United States, and many others abandoned the cost suit and common law procedure and adopted and have now thoroughly established and firmly fixed the theory of compensation, with the method of procedure set out in the bill under discussion. Thirty-one of the American States and two of her territories have adopted this theory. As stated, the old cause of action resting in a sense of justice remains the same but the method of securing the fruits of the cause of action has undergone by this Act a radical change, beneficial and effective to the employe, certain and economic to the employer, just and humane to the people who ultimately bear and carry a portion of its burden.

In some jurisdictions where this radical change was sought to be made, the principle of compensation has been so "cabbined, cribbed and confined" by immature and incomplete statutes as to restrict its operation and make it either difficult or impossible of application. The statute which sets the principle in motion, or which gives to that principle vital force, should be as broad as the principle, otherwise the limitations of the statute sets its own limitations upon the principle and it fails for want of life giving force.

In 1913 the Legislature of the State of Texas adopted a statute known as the "Employers Liability Act" and which this bill amends;

which statute in its present form is wholly inadequate to meet the purposes for which it was intended and to meet these deficiencies we have prepared for your consideration the bill under discussion. In the preparation of this bill the Industrial Accident Board has devoted more than a year of careful and painstaking labor in getting together, examining and carefully studying the laws, data and precedents of every State in the Union, of the Federal Government, and of the foreign governments above referred to. After careful study of these laws, they compiled therefrom a draft of a bill which in their judgment would afford a workable and available law governing the principle of compensation. After the board had compiled the draft aforesaid, they called into conference with them the legislative committee of the great bodies of organized labor of this State, who met with them on the 9th of November, 1916, and discussed at great length the provisions of the draft referred to. After availing itself of the judgment, experience and advice, of these truly patriotic men who in their respective capacity speak for thousands of men in this State, the board, with the bill so revised, called in council the representatives of more than one hundred business concerns of great magnitude, representing practically every business and locality in this State. These representatives met with the board in the City of Austin in the latter part of December and reviewed in detail the draft of the bill so prepared by the board and passed on by the employees. Realizing the magnitude of the task, this body of employers provided a committee to represent them in the preparation of the final draft of a bill to be submitted to the Legislature. Thereafter this committee representing the employers, and the Legislative Committee above referred to, and the Industrial Accident Board, met in conference in December and have worked practically continuously upon this bill until the 25th day of January. On the 25th day of January the final draft of the bill, which final draft has been submitted to you, was agreed upon as entirely satisfactory to the great body of em-

ployes of this State, to the great body of employers of this State, and to the Industrial Accident Board and has now the cordial and hearty support of each individual making up the respective bodies referred to.

The bill as agreed upon is Senate Bill No. 237, which is now before you for consideration. We have gone over it time and again, considering it in its minutest details. We believe it more clearly embodies the principle of compensation than any similar act of any existing government. We believe it to be definite, certain, expeditious, beneficial, accurate and economic and its passage will meet the approval of the people of this State of every class, calling and kind who are disposed to study this principle as a disinterested proposition and with a desire to master it. We believe that it will meet the approval of all our people and believing this we request this body to pass this bill without an amendment. Any amendment thereto will necessarily have the effect of upsetting the agreement reached by all parties to this conference and may unintentionally have the effect of crippling and in part destroying the fundamental principle upon which it rests. We have no disposition to invade the province of the Legislature and only address you this petition because of the facts which we think you should know, which are available to us only, and because that personally, and as citizens, we believe and request that it should become a law and this statement is our petition to you that it be so enacted without amendment.

T. H. MCGREGOR,

J. H. FOWLER,

J. H. FRICKE,

Industrial Accident Board.

ED. CUNNINGHAM,

EARL FERGUSON,

MRS. DELLA DAVIS,

HERMAN KECHALL,

G. H. SLATER,

Legislative Committee,

State Federation of Labor.

W. B. HEAD,

HOMER R. MITCHELL,

C. E. WALDEN,

FRANK KELL,

JOE W. ALLISON,

GEO. W. ARMSTRONG,

J. S. CULLINAN,

S. G. BETCHELL,

Committee Representing the Employers.

SIXTEENTH DAY.

Senate Chamber,
Austin, Texas,
Tuesday, January 30, 1917.

The Senate met at 10 o'clock a. m., pursuant to adjournment, and was called to order by Lieutenant Governor W. P. Hobby.

The roll was called, a quorum being present, the following Senators answering to their names:

Alderdice.	Hudspeth.
Bee.	Johnson of Hall.
Bailey.	Johnston of Harris.
Buchanan of Bell.	King.
Buchanan of Scurry.	Lattimore.
Caldwell.	McNealus.
Clark.	Page.
Dayton.	Parr.
Dean.	Robbins.
Decherd.	Smith.
Floyd.	Strickland.
Hall.	

Absent—Excused.

Gibson.	McCollum.
Harley.	Suiter.
Henderson.	Westbrook.
Hopkins.	Woodward.

Prayer by the Chaplain.

Pending the reading of the Journal of yesterday, the same was dispensed with on motion of Senator Clark.

See Appendix for brief statement of petitions and memorials.

See Appendix for standing committee reports.

Excused.

Senators Westbrook, Gibson, Hopkins, Harley and Woodward were excused for today, on account of important business, on motion of Senator Bee.

Special Committee Changed.

The Chair announced the appointment of Senator Hopkins in the place of Senator Hudspeth, and Senator Westbrook in the place of Senator King, as members of the special committee from the Senate to visit Stephenville, pursuant to the terms of S. C. R. No. 7.

Special Committee Report.

The special committee appointed by the Chair pursuant to Simple Resolution No. 38, to arrange a schedule of committee meetings made its report, which was read and

Senator Johnson of Hall moved to recommit the report.

Senator Page moved to table the motion to recommit, which motion to table prevailed.

The committee report was adopted and appears in full in the Appendix.

Bills and Resolutions.**Simple Resolution No. 53.**

Whereas, The reception room for the Senate Chamber was fitted up during the Thirty-fourth Legislature for a place to receive our guests and friends; therefore be it

Resolved, That we request that this room be used for that purpose alone, and not for a meeting place for the committees of this Senate.

SMITH.

CLARK.

The resolution was read, and Senator King offered the following substitute:

Be it resolved, That the reception room be set aside for the overflow of Senate employees.

KING.

Senator Clark moved to table the substitute, which motion to table prevailed.

Action recurred on the motion to adopt the resolution, and

Senator McNealus moved as a substitute to refer the same to the Committee on Rules, which substitute motion was lost by the following vote:

Yeas—5.

Buchanan of Scurry. Lattimore.
Johnson of Hall. McNealus.
Johnston of Harris.

Nays—15.

Alderdice.	Hall.
Bailey.	Hudspeth.
Buchanan of Bell.	Page.
Clark.	Parr.
Dayton.	Robbins.
Dean.	Smith.
Decherd.	Strickland.
Floyd.	